



# California Regulatory Notice Register

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MARCH 7, 2003

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## **EDITORIAL CORRECTION**

The table of contents in the February 21, 2003 edition of the California Regulatory Notice Register (Register 2003, No. 8Z) incorrectly describes the notice as “Conversion of Informal *Medication* to Petition” for the New Motor Vehicle Board. The correct description should have read “Conversion of Informal *Meditation*.”



## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 3. DEPARTMENT OF PESTICIDE REGULATION

Pertaining to the Herbicide Propanil  
DPR Regulation No. 03-002

#### NOTICE OF PROPOSED REGULATORY ACTION

The Department of Pesticide Regulation (DPR) proposes to amend section 6462 of Title 3, California Code of Regulations (3 CCR). The current regulation pertains to the herbicide propanil when used in Butte, Colusa, Glenn, Placer, and Yuba counties; the portion of Sutter County situated north of Sankey Road; and the portion of Yolo County situated north of State Highway 16.

#### SUBMITTAL OF COMMENTS

Any interested person may present comments in writing about the proposed action to the agency contact person named below. Written comments must be received no later than 5:00 p.m. on April 21, 2003. Comments regarding this proposed action may also be transmitted via e-mail <dpr03002@cdpr.ca.gov> or by facsimile transmission at (916) 324-1452.

A public hearing is not scheduled. However, a public hearing will be scheduled if any interested person submits a written request for a public hearing to DPR no later than 15 days prior to the close of the written comment period.<sup>1</sup>

#### EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action does affect small businesses.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California's Sacramento Valley produces high quality rice for domestic and foreign markets. The estimated 510,000 acres (California Agricultural Statistics Service) under rice production are partially dependent on management and control of various weeds that can significantly reduce crop yield. The

broad range of weeds that grow in the region and the unique factors specific to rice production (e.g., clay soil, flooding fields) complicate strategies to control the weed problem.

Within the Sacramento Valley rice production region, successful weed control is accomplished through a combination of cultural and chemical control methods. These control methods include crop rotation, cultivation, continuous and/or deep flooding, and the use of herbicides.

Propanil is a postemergent (applied after the rice seedlings emerge) herbicide that is absorbed through the surface of the plant. Propanil is effective in controlling a wide range of broadleaf, grass, and sedge weeds. It is applied when weed control is not obtained through a preemergent herbicide application or when the grower chooses not to apply a preemergent herbicide. Historically its use has been prohibited and/or regulated due to its phytotoxic effects on sensitive crops (prunes, pistachios, cotton, and grapes).

Another herbicide—bensulfuron (Londax®)—was introduced as an alternative to propanil for controlling weed pests. Since bensulfuron does not have the same adverse effects as propanil, damage to nontarget crops decreased. Unfortunately, over time, bensulfuron effectiveness decreased because 60 percent of the weed species present in the rice fields developed a resistance to the herbicide. With few alternatives available, propanil remains important to rice growers.

Furthermore, rice growers recently lost the ability to burn the fields after harvest. A lack of alternative herbicides and the loss of burning have the rice-growing community petitioning for the continued and increased use of propanil.

Research at the University of California concerning types of equipment and methods of application indicated that propanil's off-site movement could be controlled. Those changes, combined with California's restricted material permit system and drift control regulations, provided DPR with practical reasons for modifying the previously taken actions to prohibit propanil use. By implementing strict controls, the adverse effects to sensitive, nontarget crops such as prunes and pistachios can be mitigated. DPR subsequently adopted regulations allowing limited use of propanil in areas where it had been prohibited. Under current regulations, DPR oversees this propanil control program. This program has regulated the use of propanil in the seven major rice-growing counties.

Prior to issuing a restricted materials permit, and when evaluating a notice of intent to apply a pesticide, each county agricultural commissioner (CAC) must determine if a substantial adverse environmental impact may result from the use of the pesticide. If the CAC determines that such an impact may occur as a

<sup>1</sup> If you have special accommodation or language needs, please include this in your request for a public hearing. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service.

result of the pesticide use and feasible mitigation measures exist that could reduce the impact, he or she can place conditions on the use. Accordingly, CACs throughout the Sacramento Valley can condition the use of propanil to mitigate any potential for adverse impact. These conditions may involve adjustments to the distances between the application site and any sensitive crop, specifications for application equipment and methods of application, and daily limits on the amount of propanil applied.

By evaluating local conditions, CACs may condition permits or intended applications to modify the use of propanil as necessary. For example, current regulation specifies the minimum distances (sometimes informally referred to as buffer zones) that must be maintained between the propanil application site and sensitive crops. These distances were determined by using historical use data. As more scientific information becomes available, CACs may modify conditions to reduce or expand these distances. Also, if property owners have cultivated commercial plantings of rice along with commercial plantings of pistachios, prunes, or other sensitive crops, the CAC may modify the conditions to adjust the distances upon request by the property owner.

Section 6462 was last amended on April 9, 1999. Since that time, DPR has reviewed local restrictions that were implemented by CACs through permit conditions. DPR has also held meetings with stakeholders to discuss the current regulations and proposed amendments needed to update section 6462. DPR has considered suggestions from stakeholders and has incorporated some of the suggested language into the proposed text.

The proposed regulatory action would adopt several changes intended to update and simplify the existing regulation. The proposed changes would:

- Prohibit use of emulsifiable concentrate formulations of propanil. Currently, emulsifiable formulations are prohibited in the ground application use area but are allowed in the propanil aerial use area.
- Eliminate present restrictions that limit aerial use to the Colusa and Glenn County aerial use areas and the Butte County study area. Aerial use would be allowed in all counties outside of a four-mile distance from cultivated commercial plantings of prunes. A 720-acre per county per day limit on aerial applications would be established.
- Allow an exemption to the four-mile limit by air for the California Rice Research Station in Butte County. The exemption may be allowed by the Butte CAC upon his/her approval of a work plan covering procedures to protect cultivated commercial plantings of prunes within four miles of the application site.
- Eliminate the current designated ground application use areas covering use of nonemulsifiable formulations of propanil. In these areas there is currently a restriction of no more than 1,500 acres of rice per day, along with a ½-mile limit from cotton plantings or other sensitive crops and a two-mile limit from grape vineyards, pistachios, or prunes.
- Allow ground applications outside of a one-mile distance from prunes. The CAC will have the option of approving ground applications at sites less than a one-mile distance and sites less than a ½-mile distance under certain conditions.
- Eliminate the requirement that air or leaf samples (with prior approval of the sampling protocol) must be taken to determine if residues of propanil are occurring outside use or study areas. Currently, the presence of propanil residues in excess of 4.4 milligrams on air filters or 0.1 parts per million residues on leaf samples requires the director to evaluate use and modify or terminate applications.
- Remove reference to grape vineyards, pistachios, and cotton plantings as sensitive crops.

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the State pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a “new program or higher level of service of an existing program” within the meaning of section 6 of Article XIII of the California Constitution. DPR has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

Discussions with staff from CAC offices in the seven counties impacted by the proposed regulations have indicated that some of the CACs may experience increased salary costs resulting from the need to provide onsite monitoring of propanil application sites in some situations. However these are not mandatory, nondiscretionary costs since they will be incurred only if a CAC decides to allow propanil applications to sites located less than ½-mile from cultivated commercial prune plantings.

#### COSTS OR SAVINGS TO STATE AGENCIES

DPR has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.



#### EFFECT ON FEDERAL FUNDING TO THE STATE

DPR has determined that no costs or savings in federal funding to the State will result from the proposed action.

#### EFFECT ON HOUSING COSTS

DPR has made an initial determination that the proposed action will have no effect on housing costs.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

DPR has made an initial determination that adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

DPR has made an initial determination that the adoption of this regulation will not have a significant cost impact on representative private persons or businesses. DPR made this determination based upon an economic impact assessment performed by the California Environmental Protection Agency's Agency-wide Economic Analysis Unit.

The proposed regulations should result in both reduced use of alternative pesticide chemicals that are more expensive and less effective, and increased crop yields due to use of the more effective herbicide propanil. For rice growers in the seven-county area, this will result in some undetermined cost savings.

Some pest control advisers working as consultants, who specialize in tree crops, will experience a slight increase in time required to monitor and inspect orchards that are near rice fields. The related cost is difficult to estimate, but is not expected to be significant.

#### IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS

DPR has determined that it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California.

#### CONSIDERATION OF ALTERNATIVES

DPR must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as

effective and less burdensome to affected private persons or businesses than the proposed regulatory action.

#### AUTHORITY

This regulatory action is taken pursuant to the authority vested by Food and Agricultural Code sections 11456, 12781, 14001, 14005, and 14102.

#### REFERENCE

This regulatory action is to implement, interpret, or make specific Food and Agricultural Code section 14006.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DPR has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments on any changes for 15 days after the modified text is made available.

#### AGENCY CONTACT

Written comments about the proposed regulatory action; requests for a copy of the Initial Statement of Reasons, the proposed text of the regulation, and a public hearing; and inquiries regarding the rulemaking file may be directed to:

Fred Bundock, Regulatory Program Specialist  
Pesticide Enforcement Branch  
Department of Pesticide Regulation  
1001 I Street  
P.O. Box 4015  
Sacramento, California 95812-4015  
(916) 324-4194

**Note:** In the event the contact person is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above:

Linda Irokawa-Otani, Regulations Coordinator  
Office of Legislation and Regulations  
(916) 445-3991

Questions on the substance of the proposed regulatory action may be directed to:

Nancy Grussing  
Agriculture Program Supervisor  
Pesticide Enforcement Branch  
Department of Pesticide Regulation  
(916) 445-3866

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page at <<http://www.cdpr.ca.gov>>.

#### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <<http://www.cdpr.ca.gov>>.

### **TITLE 11. COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING**

#### **NOTICE OF PROPOSED REGULATORY ACTION**

##### **INSTRUCTOR RESUME**

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST), pursuant to the authority vested by Penal Code Sections 13503 (powers of the Commission on POST), 13506 (authority for the Commission on POST to adopt regulations), and in order to interpret, implement and make specific Sections 13510 of the Penal Code (authority for the Commission on POST to adopt and amend rules establishing minimum standards for California law enforcement officers), proposes to adopt, amend, or repeal regulations in Chapter 2 of Title 11 of the California Code of Regulations.

##### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

On January 16, 2003 the Commission accepted, pending Office of Administrative Law approval, a standardized instructor resume form (POST Resume Form 2-112). Commission Regulation 1053 requires prospective presenters submitting courses for POST approval to provide resumes for all instructors who will teach in those courses. Regulation 1053(a) and 1070(a) and (c) require certain minimum information regarding the qualifications of the instructor(s) be provided to POST for staff approval in the certification

process. Although POST has always provided a sample resume form that facilitates the recording of pertinent instructor information, a standardized POST form has never been approved through the regulatory process.

Additionally, POST and presenters must evaluate instructors of certain "Specialized Subjects" identified in Regulation 1070 to ensure that they meet specified minimum instructor training standards identified in Regulation 1082. These include completion of instructor development training and proficiency assessments by the course presenter to evaluate instructional competency and teaching skills. It further requires that the presenter submit proof of such determination or evaluation to POST. The new POST Resume Form 2-112 incorporates an Attestation Section that facilitates the requirements of Regulation 1070(a) and (c).

For these reasons, it is now proposed that Commission Regulation 1053(a)(2) be amended and the POST Resume Form 2-112 be adopted.

#### **PUBLIC COMMENT**

The Commission hereby requests written comments on the proposed action. All written comments must be received at POST no later than April 21, 2003. Written comments should be directed to Kenneth J. O'Brien, Executive Director, Commission on Peace Officer Standards and Training, 1601 Alhambra Boulevard, Sacramento, CA. 95816-7083, fax number (916) 227-2801, or e-mail at [kobrien@post.ca.gov](mailto:kobrien@post.ca.gov).

A public hearing is not scheduled. Pursuant to Government Code Section 11346.8 any interested person, or his or her duly authorized representative, may request in writing, no later than 15 days prior to the close of the public comment period, that a public hearing be held.

#### **ADOPTION OF PROPOSED REGULATIONS**

Following the close of the public comment period, the Commission may adopt the proposals substantially as described in this notice or may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before adoption, the text of any modified language clearly indicated will be made available at least 15 days before the date of adoption to all persons whose comments were received by POST during the public comment period, and all persons who request notification from POST of the availability of such changes. A request for the modified text should be addressed to the agency official designated on this notice. The Commission will accept written comments on the modified text for 15 days after the date on which the revised text is made available.



### TEXT OF PROPOSAL

Copies of the Initial Statement of Reasons and exact language of the proposed action may be obtained by submitting a request in writing to the contact person at the address listed at the end of this notice. This address is the location of all information considered as the basis for these proposals (rulemaking file). The information will be maintained for inspection during the Commission's normal business hours (8 a.m. to 5 p.m., Monday through Friday).

Copies of the Final Statement of Reasons, once it has been prepared pursuant to Section 11346.9(a), may be obtained at the address noted at the end of this notice.

### ESTIMATE OF ECONOMIC IMPACT

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency for which Government Code Section 17561 Requires Reimbursement: None

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability to compete with businesses in other states, and has found that the proposed amendment of Regulation 1053(a)(2) will have no effect on California businesses, including small businesses, because the Commission on Peace Officer Standards and Training sets selection and training standards for law enforcement and does not impact California businesses, including small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no effect on housing costs

### ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the state of California, nor result in the elimination of existing businesses or create or expand businesses in the state of California.

### CONSIDERATION OF ALTERNATIVES

In order to take this action the Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

### CONTACT PERSON

Inquiries concerning written material pertaining to the proposed action should be directed to Leah Cherry, Associate Governmental Program Analyst, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, or by telephone at (916) 227-3891, fax number (916) 227-3895 or e-mail at [leah.cherry@post.ca.gov](mailto:leah.cherry@post.ca.gov). The back-up contact person as well as inquiries concerning the substance of the proposed action/text should be directed to Steve Chaney, Senior Consultant, at (916) 227-4072, fax number (916) 227-4823 or e-mail at [schaney@post.ca.gov](mailto:schaney@post.ca.gov).

### INTERNET ACCESS

The Commission has posted on its Internet website ([www.post.ca.gov](http://www.post.ca.gov)) the information regarding this proposed regulatory action. Select "Regulation Notices" from the topics listed on the website's home page.

## TITLE 13. DEPARTMENT OF MOTOR VEHICLES

### NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to adopt Sections 230.00, 230.05, 230.10, 230.15, 230.20, 230.25, and 230.30 in Chapter 1, Division 1, Article 3.7 of Title 13, California Code of Regulations, Lien Sales.

### PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

### DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., APRIL 21, 2003, the final day of the written comment

period, in order for them to be considered by the department before it adopts the proposed regulations.

#### AUTHORITY AND REFERENCE

The department proposes to adopt these regulations under the authority granted by Vehicle Code section 1651, in order to implement, interpret or make specific Vehicle Code sections 22851, 22851.3, 22851.4, 22851.8, 22851.10, and 22851.12, and Civil Code section 3072 pertaining to the disposal of vehicles valued at \$300 or less.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code Section 22669 authorizes public agencies to remove vehicles that have been abandoned on the highways. The intent of this regulation is to provide the information necessary to process lien sales on vehicles with a value of \$400 or less that have been abandoned or removed by a public agency.

**§ 230.00 Definition of Interested Party.** Section 230.00 will establish the definition of an interested party for the purpose of conducting lien sales.

**§ 230.05 Notification of Intended Disposal of Vehicle Valued at \$300 or Less which was Removed by a Public Agency for Reasons Other than Abandonment.** Section 230.05 will establish the procedure to follow when disposing of vehicles valued at \$300 or less.

**§ 230.10 Opportunity to Oppose Disposal of Vehicle Valued at \$300 or Less.** Section 230.10 will establish the procedure the registered owner, lien holder, or interested party must follow in order to oppose the sale.

**§ 230.15 Statement of Facts Regarding Disposal of Nonabandoned Vehicles Valued at \$300 or Less.** Section 230.15 will establish the form to be used and the content of the documents the lienholder must complete and deliver to the dismantler or scrap iron processor.

**§ 230.20 Notice of Intent to Dispose of Abandoned Vehicle Valued at \$300 or Less which was Removed by a Public Agency.** Section 230.20 will establish the form which will be used to notify all interested parties of the pending disposal of the vehicle.

**§ 230.25 Disposal of Abandoned Vehicles Valued at \$300 or Less to Dismantler or Scrap Iron Processor.** Section 230.25 will establish the form to be used for this purpose and to clarify statute.

**§ 230.30 Continuation of Lien Sale Process Following Inability to Effect Service of Court Action.** Section 230.30 will establish the procedures necessary to continue a lien sale process if there is a failure to notify the registered owner and/or interested party(ies).

#### FISCAL IMPACT STATEMENT

Cost Or Savings To Any State Agency: None.

Other Non-Discretionary Cost or Savings to Local Agencies: None.

Costs or Savings in Federal Funding to the State: None.

Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

#### DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This regulatory action proposed by the department provides lienholders with the procedures to follow when conducting lien sales on vehicles under \$300. No studies or data were relied upon in support of this proposal.
- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses. The proposed regulation is only placing into regulations the forms and procedures required when conducting lien sales on low-valued vehicles.

#### PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

#### ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

## CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Bonnie DeWatney, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8954, or [bdewatney@dmv.ca.gov](mailto:bdewatney@dmv.ca.gov). In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or [dbaity@dmv.ca.gov](mailto:dbaity@dmv.ca.gov). The fax number for the Regulations Branch is (916) 657-1204.

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The express terms of the proposed action are written in plain English and are available from the contact person named in this notice. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at [www.dmv.ca.gov](http://www.dmv.ca.gov), Other Services, Legal Affairs Division, Regulatory Actions Web Page.

## AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 240, 1050, 1055, and 7380 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206, 240, 713, 1050, 1055, 7380, 7381, and 7382 of said Code, proposes to amend subsection (b) of Section 1.74, Title 14, California Code of Regulations, regarding mandatory return of steelhead report cards.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations require steelhead anglers to have a Steelhead Trout Report-Restoration Card in their possession when fishing for steelhead in anadromous waters of the State. Anglers are required to record with a ball-point pen the month, day, catch area, number of steelhead caught and kept, and the number of steelhead caught and released. The report card is valid for a calendar year, and the angler is required to retain the card until April 30 of the following year. Prior to April 30 the Department selects a random sample of anglers to be contacted to provide catch and angling information.

Effective January 1, 2003, AB 2783 amended Section 7380 of the Fish and Game Code requiring cardholders to return the cards to the Department according to a schedule or date established by the Department. Using the authority of Section 7380, the Department is proposing to require steelhead report card holders to return cards to the Department no later than January 31 of the year following the cards' expiration. In addition, Section 7380 of the Fish and Game Code requires anglers to immediately record certain information on the report card when finished fishing for the day, moving to another river or stream, or retaining a steelhead trout. Current regulations do not require the recording action to be immediate. The Department is proposing that this requirement be added to Subsection 1.74(b), Title 14, CCR.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors' Chambers, Administration Building, 2800 W. Burrel, Visalia, California, on Friday, April 4, 2003 at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the



Riverside Marriott, 3400 Market Street, Riverside, California, on Thursday, May 8, 2003 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before May 2, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than May 8, 2003 at the hearing in Riverside, California. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Sherrie Koell at the preceding address or phone number. Ed Pert, Chief, Fisheries Programs Branch, Department of Fish and Game, phone (916) 445-3616, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at [http://www.dfg.ca.gov/fg\\_comm](http://www.dfg.ca.gov/fg_comm).

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed change requires individuals to return report cards to the Department instead of retaining them. Businesses will not be affected by this requirement.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in

carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Hilton Burbank Airport & Convention Center, 2500 Hollywood Way, Burbank, CA 91505 on April 24, 2003. Written comments must be received by the Board of Chiropractic Examiners at 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833-2931, or by fax at 916/263-5369, or by e-mail addressed to [ksmith@chiro.ca.gov](mailto:ksmith@chiro.ca.gov) no later than 5:00 p.m. on April 24, 2003, or must be received by the Board at the hearing. The Board of Chiropractic Examiners, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] and to implement, interpret or make specific Section 5 of the Chiropractic Initiative Act [Section 1000-5 of the Business and Professions Code], the Board of Chiropractic Examiners is considering changes to Division 4 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Adopt 356.1. Cardiopulmonary Resuscitation/Basic Life Support Training. Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] gives the Board the responsibility for implementing regulations they deem necessary for the performance of its work in order to maintain a high standard of professional services and the protection of the public.

Currently, there is no regulation requiring chiropractors to be certified in Cardiopulmonary Resuscitation CPR/Basic Life Support (BLS). This amendment will require licensees to maintain current certification in CPR/BLS and will ensure the public that licensees are adequately trained to meet life-threatening emergencies that may occur during patient visits.

### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action will not eliminate existing business, or the expansion of businesses currently doing business, within the State of California. It will, however, provide opportunities for individuals previously barred from practice because of education shortcomings to establish business in California.

Impact on Jobs/New Businesses: The Board of Chiropractic Examiners has made an initial determination that the amendment of this regulation may have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in complying with the proposed amendment.

Housing Costs: The Board has made an initial determination that the proposed regulatory action will not affect housing costs.

Small Business Impact: The proposed amendment may affect small businesses.

### CONSIDERATION OF ALTERNATIVES

The Board of Chiropractic Examiners must determine that no alternative which it considered or that has otherwise been identified and brought to the attention of the Board would more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.



#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Chiropractic Examiners has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### FEDERAL LAW

The proposed amendment does not duplicate or conflict with any federal law.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation and of the initial statement of reasons and other information, if any, may be obtained at the hearing or prior to the hearing upon request from:

Board of Chiropractic Examiners  
Lavella Matthews, Regulations Coordinator  
2525 Natomas Park Drive, Suite 260  
Sacramento, CA 95833-2931

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at the above address.

As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, and the initial statement of reasons.

#### CONTACT PERSON

Inquiries concerning the proposed administrative action and inquiries regarding the substance of the proposed regulation may be addressed to Lavella Matthews at the above address or at 916/263-6465. An alternative contact for information regarding the proposed amendment is Kim Smith at the above address or at 916/263-5355.

When prepared, copies of the final statement of reasons will be available from the contacts listed above.

#### INTERNET ACCESS OF DOCUMENTS

Copies of the documents referred to in this notice are available via internet at [www.chiro.ca.gov](http://www.chiro.ca.gov).

### TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Hilton Burbank Airport & Convention Center, 2500 Hollywood Way, Burbank, CA 91505 on April 24, 2003. Written comments must be received by the Board of Chiropractic Examiners at 2525 Natomas Park Drive, Suite 260, Sacramento, CA

95833-2931, or by fax at 916/263-5369, or by e-mail addressed to [ksmith@chiro.ca.gov](mailto:ksmith@chiro.ca.gov) no later than 5:00 p.m. on April 24, 2003, or must be received by the Board at the hearing. The Board of Chiropractic Examiners, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] and to implement, interpret or make specific Section 5 of the Chiropractic Initiative Act [Section 1000-5 of the Business and Professions Code], the Board of Chiropractic Examiners is considering changes to Division 4 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Adopt 360. Continuing Education Audits. Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] gives the Board the responsibility for implementing regulations they deem necessary for the performance of its work in order to maintain a high standard of professional services and the protection of the public.

Currently the Board has no regulatory authority to conduct random audits on active licensed chiropractors. The adoption of this regulation will allow the Board to randomly audit active licensees to ensure that each chiropractor is knowledgeable in current chiropractic procedures and techniques and that they are in compliance with their renewal requirements. In addition, this regulation will also require licensees and continued education providers to retain their continuing education documents for a period of four years, which coincides with CCR Section 356.5 (b)(5).

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board of Chiropractic Examiners has made an determination that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business within the State of California, or the expansion of businesses currently doing business within the State of California.

Impact on Jobs/New Businesses: The Board of Chiropractic Examiners has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in complying with the proposed amendment.

Housing Costs: The Board has made an initial determination that the proposed regulatory action will not affect housing costs.

Small Business Impact: The proposed amendment may affect small businesses.

#### CONSIDERATION OF ALTERNATIVES

The Board of Chiropractic Examiners must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Chiropractic Examiners has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### FEDERAL LAW

The proposed amendment does not duplicate or conflict with any federal law.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation and of the initial statement of reasons and

other information, if any, may be obtained at the hearing or prior to the hearing upon request from:

Board of Chiropractic Examiners  
Lavella Matthews, Regulations Coordinator  
2525 Natomas Park Drive, Suite 260  
Sacramento, CA 95833-2931

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at the above address.

As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, and the initial statement of reasons.

#### CONTACT PERSON

Inquiries concerning the proposed administrative action and inquiries regarding the substance of the proposed regulation may be addressed to Lavella Matthews at the above address or at 916/263-6465. An alternative contact for information regarding the proposed amendment is Kim Smith at the above address or at 916/263-5355.

When prepared, copies of the final statement of reasons will be available from the contacts listed above.

#### INTERNET ACCESS OF DOCUMENTS

Copies of the documents referred to in this notice are available via internet at [www.chiro.ca.gov](http://www.chiro.ca.gov).

### TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Hilton Burbank Airport & Convention Center, 2500 Hollywood Way, Burbank, CA 91505 on April 24, 2003. Written comments must be received by the Board of Chiropractic Examiners at 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833-2931, or by fax at 916/263-5369, or by e-mail addressed to [ksmith@chiro.ca.gov](mailto:ksmith@chiro.ca.gov) no later than 5:00 p.m. on April 24, 2003, or must be received by the Board at the hearing. The Board of Chiropractic Examiners, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those

persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] and to implement, interpret or make specific Section 5 of the Chiropractic Initiative Act [Section 1000-5 of the Business and Professions Code], the Board of Chiropractic Examiners is considering changes to Division 4 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend 390.2. Violation Codes and Penalty. Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] gives the Board the responsibility for implementing regulations they deem necessary for the performance of its work in order to maintain a high standard of professional services and the protection of the public.

Presently there is no ability to issue a citation for violation of Section 15 of the Act, which is failure to use the title "chiropractor" or "D.C." immediately following their name. This amendment will include Section 15 of the Act as a citable offense.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board of Chiropractic Examiners has made an determination that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business within the State of California, or the expansion of businesses currently doing business within the State of California.

Impact on Jobs/New Businesses: The Board of Chiropractic Examiners has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in complying with the proposed amendment.

Housing Costs: The Board has made an initial determination that the proposed regulatory action will not affect housing costs.

Small Business Impact: The proposed amendment may affect small businesses.

#### CONSIDERATION OF ALTERNATIVES

The Board of Chiropractic Examiners must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Chiropractic Examiners has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### FEDERAL LAW

The proposed amendment does not duplicate or conflict with any federal law.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation and of the initial statement of reasons and other information, if any, may be obtained at the hearing or prior to the hearing upon request from:

Board of Chiropractic Examiners  
Lavella Matthews, Regulations Coordinator  
2525 Natomas Park Drive, Suite 260  
Sacramento, CA 95833-2931

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at the above address.

As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, and the initial statement of reasons.

#### CONTACT PERSON

Inquiries concerning the proposed administrative action and inquiries regarding the substance of the proposed regulation may be addressed to Lavella Matthews at the above address or at 916/263-6465.



An alternative contact for information regarding the proposed amendment is Kim Smith at the above address or at 916/263-5355.

When prepared, copies of the final statement of reasons will be available from the contacts listed above.

#### INTERNET ACCESS OF DOCUMENTS

Copies of the documents referred to in this notice are available via internet at [www.chiro.ca.gov](http://www.chiro.ca.gov).

## TITLE 18. BOARD OF EQUALIZATION

### NOTICE OF PROPOSED REGULATORY ACTION

#### NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1592, Eyeglasses and Other Ophthalmic Materials, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on April 23, 2003. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by April 23, 2003.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law, Revenue and Taxation Code section 6018, provides that licensed optometrists, physicians and surgeons, pharmacists, or registered dispensing opticians are the consumer, rather than retailers, of ophthalmic materials they furnish in the performance of their professional services in treating eye conditions, as defined.

Regulation Eyeglasses and Other Ophthalmic Materials, Eyeglasses and Other Ophthalmic Materials, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6018. Amendments are proposed to subdivisions (a)(4) and (b)(3) to clarify when physicians and surgeons, optometrists, and dispensing opticians make taxable retail sales of clip-on sunglasses; and to subdivisions (a), (b) and (d) to correct typographical errors.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendments and regulations do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amend-

ments and regulations will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

#### EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(7) the Board of Equalization makes an initial determination that the adoption of the amendments to Regulation 1592 will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed regulation and its amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The proposed regulations may affect small business.

#### COST IMPACT ON PRIVATE PERSON OR BUSINESSES

That Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

#### FEDERAL REGULATIONS

Regulation 1592 and the proposed changes has no comparable federal regulations.

#### AUTHORITY

Section 7051, Revenue and Taxation Code.

#### REFERENCE

Section 6018 Revenue and Taxation Code.

#### CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Mariflor Jimenez (916) 324-2952, at 450 N Street, Sacramento, CA 95814, e-mail [Mariflor.Jimenez@boe.ca.gov](mailto:Mariflor.Jimenez@boe.ca.gov) or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail [Diane.Olson@boe.ca.gov](mailto:Diane.Olson@boe.ca.gov) or Ms. Karen Anderson,

Contribution Disclosures Analyst, telephone (916) 327-1798, e-mail [Karen.Anderson@boe.ca.gov](mailto:Karen.Anderson@boe.ca.gov) or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

#### ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered would be more effective in carrying out the purpose for which this action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The notice, initial statement of reason and the text of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

#### ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

## TITLE 23. DEPARTMENT OF WATER RESOURCES

### NOTICE OF PROPOSED RULEMAKING ACTION

The Department of Water Resources (DWR or Department) proposes to adopt as permanent regulations the emergency regulations that establish procedures for public participation in the determination of a revenue requirement and standards for whether the revenue requirement is just and reasonable which became effective June 7, 2002. (California Code of Regulations, Title 23, sections 510-517.) DWR will consider all comments, objections, and recommendations specifically directed at the proposed action or the procedures followed before DWR adopts the proposed rulemaking action.

### NOTICE OF A PUBLIC HEARING <sup>1</sup>

Notice is hereby given that a public hearing on the proposed rulemaking action will be held:

**April 22, 2003—10 AM**  
**Auditorium, First Floor**  
**The Resources Building**  
**1416 Ninth Street**  
**Sacramento, California**  
**(916) 651-9075**

At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. DWR requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to DWR. The written comment period closes at **5:00 p.m. on April 21, 2003**. DWR will consider only comments received at the following address by that time. Submit comments to:

Elizabeth Leavengood  
Department of Water Resources  
California Energy Resources  
Scheduling Division  
3310 El Camino Blvd.,  
Sacramento, CA 95821-9001  
[eleaveng@water.ca.gov](mailto:eleaveng@water.ca.gov)

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<sup>1</sup> If you need reasonable accommodations due to disability, please contact the Equal Opportunity Office at (916) 653-6934 or California Relay Services at 1-800-735-2929 (TTY) or 1-800-735-2929 (Voice) and ask them to contact Gloria Bell at (916) 574-1291, [gbell@water.ca.gov](mailto:gbell@water.ca.gov).



## AUTHORITY AND REFERENCE

The authority under which these regulations are adopted is Water Code section 80014. The particular code sections implemented, interpreted, or made specific by these regulations are Water Code sections 80000, 80003, 80100, 80102(b), 80110, 80134, and 80200.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

To ensure that reliable reasonably priced electric service is available statewide, Division 27 (commencing at Water Code section 80000) authorized the Department to participate in electrical power markets by contracting for the purchase of electrical power and by selling the power to retail end use customers, and with specified exceptions, to local publicly owned electrical utilities at not more than the Department's acquisition costs plus other specified costs. Division 27 also authorized the Department to contract with electrical corporations to transmit and distribute power and provide billing, collection, and other related services as agents of the Department. Water Code section 80012 required the Department to "do those things necessary and authorized under [Water Code sections 80100–80134] to make power available directly or indirectly to electric consumers in California." Water Code section 80110 specifically authorized the Department to contract for the purchase of power "on such terms and for such periods as the department determines and at such prices the Department deems appropriate" taking into account specified considerations.

The electric power purchase program established by Division 27 is funded entirely through the Department's Electric Power Fund revenue requirement.

Obligations authorized by this division shall be payable solely from the Department of Water Resources Electric Power Fund. Neither the full faith and credit nor the taxing power of the state are or may be pledged for any payment under any obligation authorized by this division. [Water Code section 80200, subdivision (d).]

The Department shall be entitled to recover, as a revenue requirement, amounts and at the times necessary to enable it to comply with Water Code Section 80134, . . . Such revenue requirements may also include any advances made to the department hereunder or hereafter for the purposes of this division, or from the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001. [Water Code section 80110.]

Division 27 also establishes the mechanism for funding the Department's Electric Power Fund revenue requirement. Water Code section 80134 requires the Department to periodically establish and revise revenue requirements sufficient to provide the following:

- (1) The amounts necessary to pay the principal of and premium, if any, and interest on all bonds as and when the same shall become due.
- (2) The amounts necessary to pay for power purchased by it and to deliver it to purchasers, including the cost of electric power and transmission, scheduling, and other related expenses incurred by the department, or to make payments under any other contracts, agreements, or obligations entered into by it pursuant hereto, in the amounts and at the times the same shall become due.
- (3) Reserves in such amount as may be determined by the department from time to time to be necessary or desirable.
- (4) The pooled money investment rate on funds advanced for electric power purchases prior to the receipt of payment for those purchases by the purchasing entity.
- (5) Repayment to the General Fund of appropriations made to the fund pursuant hereto or hereafter for purposes of this division, appropriations made to the Department of Water Resources Electric Power Fund, and General Fund moneys expended by the department pursuant to the Governor's Emergency Proclamation dated January 17, 2001.
- (6) The administrative costs of the department incurred in administering this division.

The Department must notify the California Public Utilities Commission (Commission) following any determination or revision of a revenue requirement. (Water Code sections 80110 and 80134(b).)

Water Code section 80110 provides:

For purposes of this division and except as otherwise provided in this section, the Public Utility Commission's authority as set forth in Section 451 of the Public Utilities Code shall apply, except any just and reasonable review under Section 451 shall be conducted and determined by the department.

Pursuant to the Rate Agreement approved pursuant to Commission Decision 02-02-051, the Commission is required to impose charges upon retail end use customers for electric power deemed sold to them by the Department. The Rate Agreement also requires the Commission to impose bond charges on customers of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company until the Department has recovered the

portion of the Department's revenue requirements under Water Code section 80134 for bond related costs. The bond charges are based upon the amount of electric power sold to those customers. Any "regulation" (see Government Code section 11342.600) in the Rate Agreement, like any "regulation" used by the Department in periodically determining its revenue requirements including any procedural regulation for making a just and reasonable determination pursuant to Water Code section 80110, is exempt from the Administrative Procedure Act pursuant to the "rates, prices, or tariffs" exemption in subdivision (g) of Government Code section 11340.9.

However, Water Code section 80014 authorizes the Department to adopt regulations for the purposes of Division 27. Such regulations must construe Division 27 in a manner so as to effectuate its purposes and objectives. (Water Code section 80003(b).)

The regulations in this rulemaking action specify the procedures the Department shall use for public participation in the determination of the Electric Power Fund revenue requirements established and revised by the Department pursuant to Division 27.

#### COMPARABLE FEDERAL REGULATION OR STATUTE

There are no comparable federal regulations or statutes.

#### SATISFACTION OF OTHER STATUTORY REQUIREMENTS

The emergency regulations have been approved by the California Water Commission as required by Water Code Section 161.

#### LOCAL MANDATE DETERMINATION

These regulations do not create a local mandate.

#### DISCLOSURES/ESTIMATE OF ECONOMIC AND FISCAL IMPACT

These regulations do not impose any cost on a local agency or school district which is required to be reimbursed pursuant to Government Code sections 17500-17630, nor do they impose any other non-discretionary cost or saving on a local agency. These regulations will not result in any cost or savings to any state agency. Any Department of Water Resources costs from determining revenue requirements pursuant to Water Code Section 80134 are attributed directly to the statute. All of these costs are a part of the revenue requirement the department must recover for the Electric Power Fund pursuant to Water Code Section 80134. These regulations will not result in any cost or savings in federal funding to the state.

The Department has made an initial determination and is not aware of any significant effect the proposed action will have on housing costs.

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has assessed that the proposed action will not create, expand or eliminate California jobs or businesses.

The Department has made an initial determination and is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Department has made an initial determination and is not aware of any affect on small businesses. Any Department of Water Resources costs from determining revenue requirements pursuant to Water Code Section 80134 are attributed directly to the statute. All of these costs are a part of the revenue requirement the department must recover for the Electric Power Fund pursuant to Water Code Section 80134.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), DWR must determine that no reasonable alternative which it considered or which has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

DWR invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Elizabeth Leavengood  
Department of Water Resources  
California Energy Resources Scheduling Division  
3310 El Camino Blvd.  
Sacramento, CA 95821-9001  
**Telephone: (916) 574-2010**  
eleaveng@water.ca.gov

The backup contact person for these inquiries is:

Gloria Bell  
Department of Water Resources  
California Energy Resources Scheduling Division  
3310 El Camino Blvd.  
Sacramento, CA 95821-9001  
**Telephone: (916) 574-1299**  
gbell@water.ca.gov

Questions on the substance of the proposed regulations may be directed to Elizabeth Leavengood.

Please direct requests for copies of the proposed text (the "express terms") of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Gloria Bell at the above address.

#### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

DWR will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons and the economic and fiscal impact statement (STD Form 399). Copies may be obtained by contacting Gloria Bell at the address or phone number listed above.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, DWR may adopt the proposed regulations substantially as described in this notice. If DWR makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before DWR adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Gloria Bell at the address indicated above. DWR will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Bell at the above address and will be available through the DWR website at [www.water.ca.gov](http://www.water.ca.gov).

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through the DWR website at [www.water.ca.gov](http://www.water.ca.gov).

### **TITLE 23. STATE WATER RESOURCES CONTROL BOARD**

#### **NOTICE OF PROPOSED RULEMAKING**

NOTICE IS HEREBY GIVEN that the State Water Resources Control Board proposes to adopt amend-

ments to the underground storage tank regulations after considering all comments, objections, and recommendations regarding the proposed action.

#### **PROPOSED REGULATORY ACTION**

The State Water Resources Control Board (SWRCB) proposes to amend sections 2611, 2630, 2635, 2636, 2636.1, 2637, 2641, 2643, and 2712, and add sections 2631.1, 2638, and 2715 in Title 23 of the California Code of Regulations (CCR). These sections concern underground storage tanks.

#### **PUBLIC HEARING AND WRITTEN COMMENT PERIOD**

The SWRCB will hold a public hearing on the proposed regulations at 10:00 a.m., on April 28<sup>th</sup>, 2003 in the Coastal Hearing Room at 1001 "I" Street, Sacramento, CA. Pursuant to Government Code section 11346.8, reasonable accommodation or sign language interpreting services will be provided upon request. Such requests should be made no later than 15 days prior to the date of the public hearing.

Any written statements, arguments or contentions related to the proposed regulations must be received by 5:00 p.m. on April 28<sup>th</sup>, 2003. Submit written comments to: Scott Bacon, State Water Resources Control Board, Clean Water Programs, 1001 "I" Street, P.O. Box 944212, Sacramento, CA, 94244-2120. Written comments, arguments, or contentions sent by mail or hand-delivered are requested (but not required) to be submitted in triplicate. Comments by FAX (916-341-5808) must be received before 5:00 p.m. on the last day of the public comment period.

#### **AUTHORITY AND REFERENCE**

Water Code sections 185 and 1058, and Health and Safety Code (HSC) sections 25299.3 and 25299.7, authorize the SWRCB to adopt the proposed regulations, which would implement HSC sections 25284.1 and 25291.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The SWRCB has amended the definitions of cathodic protection tester and corrosion specialist to include licensing requirements. A cathodic protection tester must be licensed by the National Association of Corrosion Engineers or the International Code Council (ICC).

A corrosion specialist must have a corrosion specialist license issued by the National Association of Corrosion Engineers or be a registered engineer.

Compatibility and permeability testing requirements have been added to clarify existing requirements. For UST systems installed after July 1, 2003,



compatibility and permeability testing results must be provided to the local agencies upon request.

Manufacturers of leak detection equipment must provide compatibility results to the UST Program Manager at the SWRCB, upon request. This information is particularly important due to the upcoming formulation changes in motor vehicle fuels that will occur with the phase out of Methyl Tertiary Butyl Ether.

Training and certification requirements have been added for UST owners, operators, installers, service technicians, and inspectors. The new training and certification requirements, along with existing training requirements, have been consolidated into one section for organizational purposes.

By July 1, 2004, UST owners will be required to submit signed statements to local agencies identifying designated UST operators in charge of their facilities. The signed statements must attest to the fact that the owners understand and are in compliance with all regulatory and statutory requirements.

A definition of "Designated UST Operator" has been added to clarify the qualifications and responsibilities of these individuals. Designated UST operators will be responsible for performing and documenting monthly visual compliance checks of the UST system, and for training facility employees. Designated UST operators must obtain a current certificate from the ICC by July 1, 2004.

A definition of "Facility Employee" has been added to clarify the differences in qualifications and responsibilities between facility employees and designated UST operators. Designated UST operators will be required to train their facility employees annually.

By July 1, 2004, installers of UST systems must obtain a current UST Installer certificate from ICC. This requirement is in addition to all existing requirements for UST installers.

The term "Service Technician" has been defined to clarify the tasks that these individuals may perform. By July 1, 2004, service technicians must obtain current Service Technician certificates from ICC. This requirement is in addition to all existing requirements for UST service technicians.

By January 1, 2005, local agency inspectors who perform UST system compliance inspections must obtain a current certificate issued by the State Water Resources Control Board. This requirement includes special inspectors who are contracted out by local agencies. To address the need for individuals to obtain experience and training prior to certification, inspectors hired after January 1, 2005 will have 180 days to obtain certificates.

Regulations for double walled pressurized piping have been amended to require automatic line leak detectors on all double walled pressurized piping. This

will provide additional protection from catastrophic releases from pressurized piping. Amendments are also proposed which describe a monitoring option that is defined as equivalent to the currently required annual 0.1 gallon per hour precision test. In addition, the term "Fail safe" has been defined to clarify the requirements of monitoring double-walled pressurized piping.

Annual certification of monitoring equipment has been moved to a new section. This was done to separate secondary containment testing requirements from the annual monitoring equipment certification requirements, for clarity purposes.

#### FISCAL IMPACT ESTIMATES

**Mandates on Local Agencies and School Districts pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code:** The SWRCB has determined that the proposed amendments would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

**Cost or Savings to any State Agency:** State agencies that own or operate USTs will incur additional costs as a result of the following: 1) the proposed new requirements for periodic designated UST operator certification and facility employee training; and 2) additional UST permit fees that may be assessed by local agencies in response to the proposed requirements for periodic local agency inspector training.

The SWRCB estimates that the initial state cost per facility to be approximately \$229 and ongoing cost to be about \$183 annually thereafter. The total first year cost for all affected state agencies is projected by the SWRCB to be approximately \$41,479 and ongoing cost to be about \$33,183 annually thereafter. Furthermore, the SWRCB estimates that the UST permit fees assessed by local agencies will increase about \$9 per facility, resulting in a first year cost for all affected state agencies of approximately \$1629 for permit fee increases. The total cost to state agencies for the requirements and the increased tank owner fees over a five-year period is estimated by the SWRCB to be about \$174,213.

The SWRCB expects that state agencies will be able to absorb these additional costs within their existing budgets and resources.

**Other Non-discretionary Costs or Savings to Local Agencies:** Local agencies will incur additional costs as a result of the proposed requirements for UST facility inspectors to obtain an inspector certification. [These laws apply uniquely to local agencies.] Local

governments can, nevertheless, recover those costs through increased fees under HSC section 25287, subdivision (a).

Additionally, local agencies that own or operate USTs will incur new costs for training staff who are responsible for the operation and maintenance of these UST facilities. However, the costs imposed by these regulations are incidental to laws of general application, do not apply uniquely to local governments, and do not add or increase the service from the local government to the public. Therefore, they are not subject to reimbursement pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code.

The number of local agencies that own USTs is unknown, therefore the total cost to local agencies for designated UST operator and facility employee training is unknown. However, the cost for this training, per facility, will be approximately the same as for the state.

**Cost or savings in federal funding to the state:** None.

#### ECONOMIC IMPACT ESTIMATES

**Statement of Significant Statewide Adverse Economic Impact Directly Affecting California Businesses:** The SWRCB has made an initial determination that the proposed regulations may have a significant statewide adverse impact directly affecting businesses. As such, pursuant to Government Code section 11346.5(a)(7)(C), the SWRCB is required to make the following statement:

*The SWRCB has made an initial determination that the adoption/amendment of the proposed regulations may have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The SWRCB has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit proposals. Submissions may include the following considerations:*

- (1) *The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.*
- (2) *Consolidation or simplification of compliance and reporting requirements for businesses.*
- (3) *The use of performance standards rather than prescriptive standards.*
- (4) *Exemption or partial exemption from the regulatory requirements for businesses.*

However, although the above statement is legally required, the SWRCB has made an initial determination that the proposed regulations will not have a

significant impact on the ability of California businesses to compete with businesses in other states. The vast majority of businesses affected by the proposed regulations are retail motor vehicle fueling facilities. At the retail level, motor vehicle fuel is sold locally. Therefore, fueling facilities in other states cannot take away the sales of fuel from California's retail fueling facilities. Furthermore, the cost per facility of implementing the proposed regulations is relatively low (approximately \$243 in the first year, and \$195 annually thereafter).

**Types of Businesses Affected:** Any business that owns or operates a UST system that is not categorically exempt from the UST regulations may be affected by the proposed regulations. These businesses are mostly retail fuel service stations either owned or leased-out by major petroleum distributors, or small, independently owned facilities. Other businesses affected include those that own or operate USTs for their own use, such as factories, equipment rental yards, construction companies, mines, etc.

**Projected Reporting, Record keeping, and Other Compliance Requirements:** Businesses that own or operate USTs will be required to submit documentation to the local agency, identifying the designated UST operator for the UST facility. Such businesses will also have to submit UST component compatibility testing results to the local agency upon request. Note that the component manufacturer will typically have produced this documentation as part of the third-party product certification; therefore, the UST operator need only forward existing documentation to the local agency.

**Potential Impact on Private Persons or Businesses Directly Affected:** Private persons who own USTs for their personal use will be required by the proposed regulations to have a designated UST operator for their facility. The SWRCB estimates cost to become a designated UST operator to be approximately \$160 (\$70 for the exam and 2 ½ hours of time) on a biannual basis. Additionally, private persons may incur increased UST permitting fees (about \$9 per tank annually) by local agencies attempting to recover the additional costs of inspector training.

The proposed state mandated regulations will cause California businesses (mostly gasoline retail facilities) to incur new costs for designated UST operator certification and facility employee training, and possibly increased UST permit fees. The SWRCB estimates that the cost for UST owner/operator training for California businesses to be about the same per facility as for state and local agencies, with approximately 17,200 private businesses in California



projected to be impacted by the proposed regulations. The SWRCB estimates the initial cost per privately owned facility to be approximately \$243 and ongoing cost to be about \$195 annually thereafter. These estimates include a \$9 per tank increase in the annual UST permit fee, which may be assessed by local agencies. The SWRCB estimates the total cost to California businesses as a result of the proposed regulations to be approximately \$17,600,000 over a five-year period. However, due to the relatively low estimated 5-year cost of approximately \$1,020 per facility to comply with the proposed regulations, the SWRCB has determined that it is unlikely that these regulations will cause anyone to go out of business.

**Effect on the Creation or Elimination of Jobs within California:** Due to the low cost per facility to comply with the proposed regulations, the SWRCB has determined that it is unlikely that these regulations will have any effect on the creation or elimination of jobs within California.

**Effect on the Creation of New Businesses or Elimination of Existing Businesses within California:** Due to the low cost per facility to comply with the proposed regulations, the SWRCB has determined that it is unlikely that these regulations will have any effect on the creation of new businesses or elimination of existing businesses within California.

**Effect on the Expansion of Businesses Currently Doing Business in California:** Due to the low cost per facility to comply with the proposed regulations, the SWRCB has determined that it is unlikely that these regulations will have any effect on the expansion of businesses currently doing business in California.

**Potential Significant Impact on Housing Costs:** None.

#### EFFECT ON SMALL BUSINESS

The proposed regulations may impact small businesses that own or operate a UST system that is not categorically exempt from the UST regulations, or small businesses that conduct work related to UST construction, monitoring, or maintenance.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the SWRCB must determine that no reasonable alternatives it considered, or that have otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed action.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The SWRCB has prepared the following for public review: 1) an initial statement of reasons for

the proposed amendments; 2) a rulemaking record which contains all of the information upon which the proposed amendments are based; and 3) the text of the proposed amendments. Copies of these documents will be available upon request by writing to the SWRCB, attention: Mrs. Barbara August, Division of Water Quality, Underground Storage Tank Program, 1001 "I" Street, 17<sup>th</sup> Floor, P.O. Box 944212, Sacramento, CA, 94244-2120. This address is also the location of public records, including reports, documentation, and other material related to the proposed amendments. Copies of these documents are also available on the SWRCB Underground Storage Tank Program website at: <http://www.swrcb.ca.gov/cwphome/ust/>. Upon completion of the public comment period for this proposed rulemaking the SWRCB will prepare a final statement of reasons for proposed amendments, which will also be available upon request at the above address and website.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, the SWRCB may adopt the proposed regulations. If substantive changes are made, the modified text will be made available for comment for at least 15 days prior to adoption, and sent to the following persons: all persons who testified at the public hearing; all persons who submitted written comments at the public hearing; all persons whose comments were received by the SWRCB during the public comment period; and all persons who requested notification from the SWRCB of the availability of such changes.

Please direct all written comments, procedural inquiries, and technical questions to:

**Scott Bacon**  
**State Water Resources Control Board**  
**Division of Water Quality**  
**1001 "I" Street, 17<sup>th</sup> Floor**  
**P.O. Box 944212**  
**Sacramento, CA 94244-2120.**  
**(916) 341-5873**  
[bacons@swrcb.ca.gov](mailto:bacons@swrcb.ca.gov)

Back-up contact persons:

**Joshua Grover**  
**State Water Resources Control Board**  
**Division of Water Quality**  
**1001 "I" Street, 17<sup>th</sup> Floor**  
**P.O. Box 944212**  
**Sacramento, CA 94244-2120.**  
**(916) 341-5868**  
[groverj@swrcb.ca.gov](mailto:groverj@swrcb.ca.gov)

Shahla Farahnak  
State Water Resources Control Board  
Division of Water Quality  
1001 "I" Street, 17<sup>th</sup> Floor  
P.O. Box 944212  
Sacramento, CA 94244-2120.  
(916) 341-5668  
[farahnas@swrcb.ca.gov](mailto:farahnas@swrcb.ca.gov)

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contracts in order to submit a responsive bid must present evidence that its Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.  
DBA ASI Telesystems, Inc.  
21150 Califa Street  
Woodland Hills, CA 91367

Bay Recycling  
800 77th Avenue  
Oakland, CA 94621

C & C Disposal Service  
P. O. Box 234  
Rocklin, CA 95677

Choi Engineering Corp.  
286 Greenhouse  
Marketplace, Suite 329  
San Leandro, CA 94579

Fries Landscaping  
25421 Clough  
Escalon, CA 95320

Marinda Moving, Inc.  
8010 Betty Lou Drive  
Sacramento, CA 95828

MI-LOR Corporation  
P. O. Box 60  
Leominster, MA 01453

Peoples Ridesharing  
323 Fremont Street  
San Francisco, CA 94105

San Diego Physicians &  
Surgeons Hospital  
446 26th Street  
San Diego, CA

Southern CA Chemicals  
8851 Dice Road  
Santa Fe Springs, CA 90670

Tanemura and Antle Co.  
1400 Schilling Place  
Salinas, CA 93912

Turtle Building Maintenance Co.  
8132 Darien Circle  
Sacramento, CA 95828

Univ Research Foundation  
8422 La Jolla Shore Dr.  
La Jolla, CA 92037

Vandergoot Equipment Co.  
P. O. Box 925  
Middletown, CA 95461

### DEPARTMENT OF FISH AND GAME

#### CESA CONSISTENCY DETERMINATION FOR Marsh Creek Pipeline Replacement Project Contra Costa County

The Department of Fish and Game ("Department") received notice on February 14, 2003 that the Shell Pipeline Company, LP proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of (1) installing a 20-inch-diameter petroleum pipeline to replace an existing section of pipeline, (2) purging and abandoning in place the existing section of pipeline, and (3) right-of-way restoration and project operation. The activities will impact approximately 55 acres, including right of way clearance, and storage and staging areas.

The U.S. Fish and Wildlife Service, on January 30, 2003, issued to the U.S. Army Corps of Engineers ("Corps") a no jeopardy Federal Biological Opinion (1-1-01-F-0299) which considers the Federally and State threatened Alameda whipsnake (*Masticophis lateralis euryxanthus*) and Federally endangered and State threatened San Joaquin kit fox (*Vulpes macrotis mutica*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, Shell Pipeline Company, LP is requesting a determination on whether the Federal Biological Opinion 1-1-01-F-0299 is consistent with CESA.

If the Department determines that the Federal Biological Opinion is consistent with CESA, Shell Pipeline Company, LP will not be required to obtain an incidental take permit under CESA (Fish and Game Code Section 2081(b)) for the proposed project.

## DEPARTMENT OF FISH AND GAME

### CESA CONSISTENCY DETERMINATION FOR Midland Materials Yard Pit Expansion Project Riverside County

The Department of Fish and Game ("Department") received notice on February 14, 2003 that the Riverside County Transportation Department proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of expanding sand and gravel extraction activities beyond the current 35.7 acres on the 160 acre Midland Materials Yard. The activities will impact approximately 124.3 additional acres of land.

The U.S. Fish and Wildlife Service, on February 27, 2002, issued to the Bureau of Land Management ("BLM"), a no jeopardy Federal Biological Opinion (FWS-ERIV-1813.3) which considers the Federally and State threatened desert tortoise (*Gopherus agassizii*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, Riverside County Transportation Department is requesting a determination on whether the Federal Biological Opinion FWS-ERIV-1813.3 is consistent with CESA.

If the Department determines that the Federal Biological Opinion is consistent with CESA, Riverside County Transportation Department will not be required to obtain an incidental take permit under CESA (Fish and Game Code Section 2081(b)) for the proposed project.

## DEPARTMENT OF TOXIC SUBSTANCES CONTROL

### HOUSEHOLD HAZARDOUS WASTE UNIT STATE REGULATORY PROGRAMS DIVISION PUBLIC NOTICE FOR VARIANCE ISSUANCE

On February 6, 2003, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a three year variance renewal to Alameda County. Authority for this action is contained in Health and Safety Code (HSC), section 25143. The variance covers the county house-

hold hazardous waste (HHW) collection program and includes permanent HHW collection facilities (PHHWCF) located at:

Oakland PHHWCF  
2100 East 7th Street  
Oakland, CA 94606  
Livermore PHHWCF  
5584 La Ribera Street  
Livermore, CA 94550  
Hayward PHHWCF  
2091 W. Winton Avenue  
Hayward, CA 94545

The variance allows the Alameda County PHHWCFs to accept from qualified conditionally exempt small quantity generators (CESQG) up to 100 kilograms (220 pounds/27 gallons) of hazardous waste at one time per month. The variance also allows those qualified small businesses to transport up to that same limit to the PHHWCFs without meeting registered transporter or hazardous waste manifesting requirements. Standards that are exempted are contained in the HSC, sections 25163(a) and 25160 respectively. Transported waste is shipped in accordance with federal Department of Transportation, California Highway Patrol, and California Vehicle Code requirements. For additional information contact Lee Halverson of at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

### HOUSEHOLD HAZARDOUS WASTE UNIT STATE REGULATORY PROGRAMS DIVISION PUBLIC NOTICE FOR VARIANCE ISSUANCE

On January 15, 2003, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued an agricultural oil collection variance to Amador County. Authority for this action is contained in Health and Safety Code, section 25143. The variance authorizes the listed site to accept up to 55 gallons of used oil from local growers.

Buena Vista Landfill, 6500 Buena Vista Road, Ione  
Standards exempted are contained in HSC, section 25201. Transported waste is shipped in accordance with federal Department of Transportation, California Highway Patrol, and California Vehicle Code requirements. For additional information contact Lee Halverson at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

### HOUSEHOLD HAZARDOUS WASTE UNIT STATE REGULATORY PROGRAMS DIVISION PUBLIC NOTICE FOR VARIANCE ISSUANCE

On January 9, 2003, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a three-year conditionally exempt small quantity generator (CESQG) transportation and manifesting variance renewal to the Kern



County's household hazardous waste collection program. Authority for this action is contained in Health and Safety Code, section 25143. The variance authorizes the City of Sacramento's household hazardous waste collection facilities to accept and qualified small businesses to transport up to 100 kilograms (220 pounds/27 gallons) of hazardous waste at one time per month without meeting registered transporter or hazardous waste manifest requirements. Standards exempted are contained in Health and Safety Code, sections 25163, subsection (a) and 25160 respectively. Transported waste is shipped in accordance with federal Department of Transportation, California Highway Patrol, and California Vehicle Code requirements. For additional information contact Asha Arora at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3874.

**HOUSEHOLD HAZARDOUS WASTE UNIT  
STATE REGULATORY PROGRAMS DIVISION  
PUBLIC NOTICE FOR VARIANCE ISSUANCE**

On February 6, 2003, the State Regulatory Programs Division of the Department of Toxic Substances Control (DTSC) issued a three-year variance renewal to the Lassen County for their agricultural oil collection program. Authority for this action is contained in Health and Safety Code (HSC), section 25143.

**Transfer Station**, 657-455 Waste Transfer #4 Road, Bieber

This three-year variance authorizes this site to participate in the Lassen County used oil collection program. This waste oil collection program authorizes the collection location to accept up to 55 gallons of waste oil from qualified growers. Standards that are exempted are contained in the HSC, section 25201. Additional operating requirements are contained in the variance. Transported waste is shipped in accordance with federal Department of Transportation, California Highway Patrol, and California Vehicle Code requirements. For additional information contact Lee Halverson at the Department of Toxic Substances Control, Household Hazardous Waste Unit at (510) 540-3894.

**CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL  
HEALTH HAZARD ASSESSMENT**

The Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency announces the availability of the draft technical support document for a proposed Public Health Goal (PHG) for arsenic. This first publicly-released draft document will be posted on the OEHHA Web site ([www.oehha.ca.gov](http://www.oehha.ca.gov)) on March 7, 2003. In addition, a one-day public workshop will be

held on May 2, 2003, at the Elihu Harris Building, 1515 Clay Street, First Floor, Oakland, California to discuss the scientific basis and recommendations in the draft technical support document. The workshop will begin at 10:00 a.m. and will last until all business for the day is concluded or 4:30 p.m. OEHHA follows the requirements set forth in Health and Safety Code, Sections 57003(a) and 116365, for conducting the workshop and obtaining public input.

The workshop is planned to encourage a dialogue between OEHHA scientists and the public, to discuss the PHG recommendations and to receive comments. Following the workshop, OEHHA will revise the document as appropriate, and make it available for a 30-day public review comment period. This second review and comment period will be announced and published in the *California Regulatory Notice Register* and posted on the OEHHA Web site. The responses to the significant comments from the public at the workshop and during the public review comment periods will also be available on the OEHHA Web site at final publication.

Oral and written comments received at the workshop will be considered during the revision of the draft technical support document. Written comments must be received at OEHHA by 5:00 p.m. on May 2, 2003, to be considered during this first revision of the document.

The PHG technical support document provides information on the health effects of contaminants in drinking water. The PHG is a level of drinking water contaminant at which adverse health effects are not expected to occur from a lifetime of exposure. The California Safe Drinking Water Act of 1996 (specifically Health and Safety Code Section 116365), as amended in 1999, requires OEHHA to develop PHGs based exclusively on public health considerations. PHGs published by OEHHA will be considered by the California Department of Health Services in setting primary drinking water standards (Maximum Contaminant Levels, or MCLs).

Printed copies of the draft technical support documents may be obtained for a fee from:

Instant Copying and Laser Printing  
2015 Shattuck Avenue  
Berkeley, California 94720  
Phone: (510) 704-9700  
FAX: (510) 704-9970

If you would like to receive further information on this announcement or have questions, please contact our office at (510) 622-3170 or the address below. Written requests should be addressed to:

Dr. Yi Wang  
Pesticide and Environmental Toxicology Section  
Office of Environmental Health Hazard Assessment

California Environmental Protection Agency  
1515 Clay Street, 16<sup>th</sup> Floor  
Oakland, California 94612  
Attention: PHG Project  
FAX: (510) 622-3218

## DECISION NOT TO PROCEED

### CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

SAFE DRINKING WATER AND TOXIC  
ENFORCEMENT ACT OF 1986  
(PROPOSITION 65)

#### NOTICE TO INTERESTED PARTIES

#### Decision Not to Proceed With the Listing of Diethanolamine Via the Authoritative Bodies Listing Mechanism

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65 or the Act) requires the Governor to publish, and update at least annually, a list of chemicals known to the State to cause cancer or reproductive toxicity. The Act provides for administratively listing chemicals as known to the State to cause cancer or reproductive toxicity (Health and Safety Code Section 25249.8(b)) when a body considered to be authoritative by the state's qualified experts has formally identified it as causing cancer or reproductive toxicity. The National Toxicology Program, in addition to other bodies, has been identified as an authoritative body for purposes of the Act. The criteria for listing chemicals through the "authoritative bodies" mechanism are set forth in Title 22, California Code of Regulations (22 CCR) Section 12306.

As the lead agency for the implementation of Proposition 65, the Office of Environmental Health Hazard Assessment (OEHHA) of the California Environmental Protection Agency examines documents released by authoritative bodies to identify chemicals for possible listing under Proposition 65. OEHHA identified documents produced by the National Toxicology Program (NTP, 1997a and b) supporting the possible listing of diethanolamine via the authoritative bodies mechanism. On February 5, 1999, OEHHA issued a "Request for Relevant Information" in the *California Regulatory Notice Register* (Register 99, No. 6) concerning the possible listing of diethanolamine as "known to cause cancer." As part of its commitment to public participation and external scientific peer review in its implementation of Proposition 65, OEHHA solicited, via that notice,

information relevant to the evaluation of diethanolamine in the context of the Proposition 65 administrative listing regulatory criteria (22 CCR Section 12306). The notice announced the beginning of the public comment period for receiving written comments and a public forum (held March 2, 1999) for interested parties to present oral comments and to discuss the scientific data and other information relevant to a determination as to whether diethanolamine and other chemicals identified in the notice met the criteria for listing set forth in 22 CCR Section 12306.

OEHHA heard and received in writing substantive public comment on the possible listing of diethanolamine. Considerable scientific information has been released subsequent to the release of the National Toxicology Program report on diethanolamine (NTP, 1997a). This new information has been considered by OEHHA in light of 22 CCR Section 12306(f). Because it is not clear that the scientific criteria for listing under the authoritative bodies mechanism have been met, OEHHA has decided not to proceed with the administrative listing of diethanolamine under Proposition 65.

#### REFERENCES

National Toxicology Program (NTP, 1997a). *Toxicology and Carcinogenesis Studies of Diethanolamine (CAS No. 111-42-2) in F344/N Rats and B6C3F<sub>1</sub> Mice (Dermal Studies)*. Board Draft. NTP Technical Report Series No. 478 NTIS Publication No. 97-3968. US Department of Health and Human Services, NTP, Research Triangle Park, NC.

National Toxicology Program (NTP, 1997b). *Summary Minutes from Peer Review of Draft Technical Reports of Long-Term Toxicology and Carcinogenesis Studies by the Technical Reports Review Subcommittee on December 9-10, 1997*. NTP, Research Triangle Park, NC.

## RULEMAKING PETITION DECISIONS

### AIR RESOURCES BOARD

February 24, 2003

Mr. Thomas L. Darlington  
Air Improvement Resource, Inc.  
47298 Sunnybrook Lane  
Novi, Michigan 48374

Re: Denial of January 24, 2003 Petition for Amendment of the Zero-Emission Vehicle Regulations



Dear Mr. Darlington:

By letter dated and hand-delivered January 24, 2003, Air Improvement Resource, Inc. (AIR) submitted a petition pursuant to Government Code section 11340.6 requesting that the Air Resources Board (ARB or Board) conduct a public hearing on a specific set of proposed amendments to the California zero-emission vehicle (ZEV) regulations. Your proposed amendments are very similar to amendments previously requested in a rulemaking petition that you submitted December 20, 2002 and that was denied by the ARB's Acting Executive Officer in a January 21, 2003 letter. As you know, our Board is scheduled to conduct a March 27, 2003 hearing to consider major amendments to the ZEV regulations. The hearing date was recently postponed from the original February 27, 2003 date to allow full public consideration of significant further modifications ARB staff is preparing to release by the first week of March.

As the ARB's Executive Officer, I may be delegated any duty that the Board deems appropriate (Health and Safety Code § 39515(a)). Any power that the Board may lawfully delegate is conclusively presumed to have been delegated unless the Board expressly reserves the power to itself (Health and Safety Code § 39516). The power to act on rulemaking petitions has not been reserved by the Board. Government Code section 11340.7 requires a state agency to take action on a rulemaking petition within 30 days of receipt of the petition. In consideration of the opportunity you have in the pending ZEV rulemaking to urge our Board to adopt your preferred amendments, I believe it is appropriate for me to deny the petition pursuant to my delegated authority as Executive Officer. The reasons for the denial are described in more detail below. Rather than repeat the description of the procedural context in our January 21, 2003 denial of your initial petition, I incorporate the January 21, 2003 letter by reference.

Government Code section 11340.6 establishes a mechanism under which "any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation as provided in [the California Administrative Procedure Act provisions on rulemakings]". Thus the action to be sought in a section 11340.6 petition is issuance of a notice of proposed adoption, amendment or repeal of a regulation pursuant to the "45-day" notice requirements of Government Code section 11346.5. A primary basis for our denial of your December 20, 2003 petition was that the rulemaking hearing that had been scheduled for February 27, 2003 would provide AIR and other parties a forum in which to urge the Board to adopt modified amendments that incorporate all or some of the amendments presented in your petition—without the need for a new "45-day" rulemaking notice.

Recognizing this forum, your January 24, 2003 letter requests that the changes you propose to the ZEV regulation be adopted at the hearing that had been scheduled for February 27, 2003, subject to compliance with the requirements for a supplemental opportunity for public comment on modifications to the originally noticed proposed regulatory text and to the extent the ARB believes that the changes are within the scope of the notice. The Board of course cannot take action on the amendments sought until the Board conducts the hearing and accepts all timely comments. Since the acknowledged "substance of the request" in your January 24, 2003 letter is for adoption of modified amendments at the already scheduled rulemaking hearing, your letter is appropriately treated as a comment for the upcoming rulemaking hearing rather than as a petition for initiation of a wholly new rulemaking hearing. As such, the Board will consider and respond to your comments in the context of the rulemaking in accordance with statutory rulemaking requirements in Government Code section 11346.9(a)(3) and elsewhere. Characterizing what are essentially comments in a pending rulemaking as a petition should not have the effect of requiring the agency's full-blown response *before* the rulemaking hearing is conducted.

You ask for confirmation of your understanding that the ARB believes that the main changes requested in your December 20, 2002 petition may lawfully be adopted as part of the rulemaking initiated with the hearing notice published January 10, 2003. As discussed in our January 21, 2003 letter, most of the proposed amendments separately itemized in Attachment II to your December 20, 2002 letter are sufficiently related to the originally proposed amendments to permit their inclusion as modifications—either because of a direct relationship to the amendments or their inclusion among the nonexclusive list of possible modifications contained on page 13 of the hearing notice. An area of change that may be problematical is the use of "bronze" partial ZEV (PZEV) credits from 2005 and subsequent model year vehicles to satisfy "gold" and "silver" obligations. However, we believe that changes allowing under certain circumstances use of credits from "silver" Advanced Technology PZEVs (AT PZEV) to satisfy "gold" obligations, and more inclusive criteria for gasoline hybrid vehicles to qualify for treatment as "silver" AT PZEVs, would be within the scope of the notice in light of the possible modifications listed in the notice. In any case, it is far preferable for all interested parties to move ahead towards the March 27, 2003 hearing at which they will be able to present their views to the Board on appropriate amendments to the ZEV program. If the Board identifies a need for modifications that are beyond the

scope of the notice, it can give clear direction to staff for an expedited presentation of those modifications in a newly noticed rulemaking.

There is one change included in your petition that is not within the scope of the notice in the pending rulemaking and that I am denying outright. Your January 24 letter again requests that the ARB amend the test procedure for the zero evaporative emissions standard, asserting that until your specified change is made, ARB should not expect the U.S. Environmental Protection Agency (EPA) to grant a waiver of preemption under section 209 of the federal Clean Air Act. We indicated in our January 21 response to your first petition that staff was still evaluating the best approach on this issue. After further consideration, we have concluded that there is no need to make the requested amendment and I am denying your January 24 petition for amendments in this area for the following reasons.

The provisions on the optional zero fuel evaporative emissions standards that must be met by PZEVs are contained in section 1976(b)(1)(E), title 13, California Code of Regulations. Your December 20 petition sought an amendment that would add language providing that a manufacturer would be deemed in compliance if the manufacturer meets the requirements of Manufacturers Advisory Correspondence (MAC) 2001-03, which was issued November 1, 2001. You state that "the current text of the regulation, which does not include that test procedure [in MAC 2001-03], is infeasible on its face." You continued,

"The infeasibility was not apparent at the time the PZEV standards were first adopted by ARB, because at that time ARB staff believed that a particular compliance strategy for the zero-evap standard could be implemented. When that strategy turned out to be unworkable, the ARB staff and industry had to resort to the use of the test procedure that is currently contained [in MAC 2001-03] for model years before MY 2005, and that procedure must be included in the regulatory text."

The evaporative emissions standard for PZEVs was established in the 1998-1999 LEV II rulemaking. It consists of two elements: (1) "whole vehicle" evaporative emission standards that include emissions from paints, upholstery, tires and other vehicle sources, and (2) a "fuel only" standard of zero (0.0) grams. Compliance with the whole vehicle standards is determined using the three-day and two-day diurnal-plus-hot-soak tests that are also used to determine compliance with the ARB's primary evaporative emission standards for 1995 and subsequent model-year vehicles. In comments during the supplemental 15-day comment period in the LEV II

rulemaking, the Alliance of Automobile Manufacturers (Alliance) asked that the "fuel-only" requirement be clarified. As characterized in the Final Statement of Reasons (FSOR), the Alliance recommended that the fuel-only "'test' be defined as the three-day and two-day diurnal-plus-hot-soak tests, and that the submittal of a test plan for demonstrating that the vehicle has zero-evaporative emissions throughout its useful life be allowed as an alternative to the diurnal-plus-hot-soak tests." (LEV II FSOR, p. 98, Comment 122) The staff concurred with this suggested clarification and the regulation text was modified accordingly in connection with the second 15-day notice. In addition, Part III Section G of the California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles authorizes manufacturers to use an alternative set of test procedures to demonstrate compliance with the various evaporative emission standards with advance Executive Officer approval if the alternative procedure is demonstrated to yield test results more stringent than those resulting from the specified procedures.

MAC 2001-03 was the direct result of a request by the Alliance for advance Executive Officer approval of an alternative "fuel-only" evaporative emissions test plan. The MAC identified a test protocol that was approved for the 2003 and 2004 model years, with additional data needed for certification of 2005 and subsequent model years. MAC 2001-03 also expressly stated that manufacturers had the option of submitting for approval alternative test protocols to be used instead of the protocol specified in the MAC.

The AIR petitions do not explain why the asserted infeasibility of the three-day plus two-day diurnal-plus-hot-soak tests to demonstrate zero-fuel only emissions invalidate the mechanism in the regulation authorizing approval of an alternative test plan in lieu of the diurnal-plus-hot-soak tests. Perhaps this claim is premised on the recent decision in *Ethyl Corporation v. Environmental Protection Agency*, 306 F.3d 144 (D.C. Cir. 2002) in which the court invalidated the federal "CAP 2000" regulations under which vehicle manufacturers develop their own emissions durability test methods and procedures subject to EPA approval, on the ground that they were inconsistent with the direction in Clean Air Act section 206(d) that EPA is to establish emission test methods by regulation. Even if the Ethyl situation were considered to be analogous, it would not call the ARB's "fuel-only" evaporative emissions requirement into question. This is because the "consistency" requirement for California waivers of preemption under Clean Air Act section 209(b)(1)(C) only requires consistency with Clean Air Act section 202(a)—not section 206. (See *Motor & Equipment Manufacturers Association v Nichols*, 142 F.3d 449 (D.C. Cir., 1998).)

In accordance with Government Code section 11340.7(d), a copy of this letter is being transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register. Your petition cites the following as authority for the requested action: Health & Safety Code sections 39600 and 43018, and Government Codes sections 11340.6–11340.7. The agency contact person on this matter is Chuck Shulock, Vehicle Programs Specialist, at (916) 322-6964. Interested parties may obtain a copy of the AIR Petition from Stacey Dorais, Clerk of the Board, Air Resources Board, 1001 “I” Street, P.O. Box 2815, Sacramento, California 95812, (916) 322-5594.

While I am denying the petition, I again emphasize that the objective of any rulemaking petition is to have the agency conduct a rulemaking in which the proposed regulatory amendments may be adopted, and the pending rulemaking provides just such an opportunity with regard to many of the changes you are seeking. I look forward to your participation in this rulemaking, both before and at the March 27, 2003 hearing.

The record upon which this denial is based includes the January 24, 2003 and December 20, 2002 Petitions and their attachments, and this letter, the January 21, 2003 petition denial, and its references and attachment.

Sincerely,

Catherine Witherspoon  
Executive Officer

cc: Chuck Shulock  
Mobile Source Control Division

Stacey Dorais  
Board Administration and Regulatory  
Coordination Unit  
Office of Legal Affairs

## **DEPARTMENT OF CORRECTIONS**

### **DECISION ON PETITION TO AMEND REGULATIONS**

#### **PETITIONER**

Jack Nottingham.

#### **AUTHORITY**

Under authority established in Penal Code (PC) Section 5058 the Director may prescribe and amend regulations for the administration of prisons. PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein.

#### **CONTACT PERSON**

Please direct any inquiries regarding this action to Rick Grenz, Chief, Regulation and Policy Management Branch, Department of Corrections, P.O. Box 942883, Sacramento, CA 94283-0001, or telephone (916) 324-4331.

#### **AVAILABILITY OF PETITION**

The petition for amendment of the regulations is available upon request directed to the Department’s contact person.

#### **SUMMARY OF PETITION**

It is the petitioner’s contention that the Wasco State Prison Reception Center does not provide inmates with any form of an initial classification hearing or give them any documents whatsoever prior to their case being referred to the Classification Services Representative (CSR), making it impossible to attach documents to a reception center transfer appeal, as is required. A regulation is requested specific to § 3084.7(d)(3) which would mandate the acceptance of a reception center transfer appeal on face value, without any attached documents (including classification scoring documents), the required documents to be subsequently obtained by the correctional administrator of the center.

#### **DEPARTMENT DECISION**

The Director of Corrections denies the petition to make the requested change because the need for any new regulatory action has not been demonstrated.

As is pointed out in existing § 3377, reception centers are not facilities of permanent assignment. Moreover, the provisions of § 3379(a)(1) expressly exempt reception center transfers from regular classification committee action and CSR endorsement. Finally, the process set forth in existing § 3084.7(d) for reception center transfer appeals starts with CSR endorsement of the transfer which then can proceed in the manner set forth in subsections (d)(3)(A) through (F) through the third level of appeal.

Because reception centers are not permanent assignments, classification scoring conducted in accordance with other regulatory requirements is pending and hence, it is entirely likely that there are no such documents to attach to an appeal. Furthermore, in any case of standard appeal preparation under § 3084.2(a) such attachments are optional. Finally, attachments are not mandatory or required, as alleged, in order to successfully pursue a reception center transfer appeal in accordance with the provisions of § 3084.7(d)(3).

Therefore, the petition is denied. Reception centers are not required to conduct initial classification hearings or provide documentation in the manner the petitioner claims. Likewise, making the acceptance of a transfer appeal mandatory absent documentation, as



requested, is unnecessary since there is no requirement that documentation must be submitted to pursue an appeal. That first level reviews of such appeals will be conducted by the center administrator is already set forth in § 3084.7(d)(3)(B).

## **DEPARTMENT OF DEVELOPMENTAL SERVICES**

### **DECISION ON PETITION TO AMEND REGULATIONS**

The Department of Developmental Services (DDS) submits the following Decision in response to a Petition for Reconsideration to Amend Title 17, California Code of Regulations, Division 2, Chapter 3, and Subchapter 2 by deleting Section 54322, Subsection (d)(10).

#### **PETITIONER**

Jean Wolfkind

#### **REGULATIONS SECTION AFFECTED**

Title 17, Section 54322, Subsection (d)(10)

#### **AUTHORITY**

Sections 11152, Government Code, Sections 4405, 4631, 4648(a), 4689.1 and 4791 (i), Welfare and Institutions Code.

#### **DECISION**

The language of Title 17, Section 54322, Subsection (d)(10) is adequately Worded to forewarn vendors and prospective vendors that vendorization does not guarantee them referrals or placement of developmentally disabled persons. Because placement of developmentally disabled persons are made by regional centers to meet the needs and preferences of developmentally disabled persons and their families, as outlined in the Individual Program Plan, regional centers cannot guarantee referral or placement to any vendor or prospective vendor. For this reason DDS declines Petitioner's request to delete Title 17, Section 54322 Subsection (d)(10).

#### **REASONS FOR DEPARTMENT'S DETERMINATION**

In order to safeguard that the Individual Program Plan, and provision of services, including placement, by the regional center, remains centered on the developmentally disabled person's needs and preferences, regional center must maintain the discretion to refer and place individuals among available vendors who provide appropriate cost-effective service. In conclusion, the Petition for Reconsideration to Amend Title 17, California Code of Regulations, Section 54322, Subsection (d)(10) is rejected for essentially the same reasons as the Petition to Amend.

#### **CONTACT PERSON**

Comments and inquiries concerning the Decision may be directed to:

Attention: Sergio J. Diaz  
Senior Staff Counsel  
Department of Developmental Services  
Office of Legal Affairs  
1600 Ninth Street, Room 240, MS 2-14  
Sacramento, California 95814  
Phone: (916) 654-2842  
FAX: (916) 654-1716

If Mr. Diaz is unavailable, comments and inquiries concerning the Decision may be directed to:

Attention: Catherine Ewing  
Chief Counsel  
Department of Developmental Services  
Office of Legal Affairs  
1600 Ninth Street, Room 240, MS 2-14  
Sacramento, California 95814  
Phone: (916) 654-3405  
FAX: (916) 654-1716

#### **AVAILABILITY OF PETITIONS**

Copies of the Petitions to amend the regulations, along with all other public records, reports, documentation or other material related to the Decision will be contained in the Petition file and will be available for inspection and copying from the contact person at the above address. In addition, the Decision and other materials for this petition may be viewed over the Internet at [www.dds.ca.gov](http://www.dds.ca.gov).

## **SUMMARY OF REGULATORY ACTIONS**

### **REGULATIONS FILED WITH SECRETARY OF STATE**

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

#### **CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD Landfill Closure and Postclosure Maintenance**

This action amends various provisions governing landfill closure and landfill postclosure maintenance.



Title 23  
California Code of Regulations  
AMEND: 20164, 21110, 21570, 21640, 21685,  
21780, 21860, 21865, 21870, 21880  
Filed 02/25/03  
Effective 02/25/03  
Agency Contact: Steve Levine (916) 341-6064

**DEPARTMENT OF ALCOHOL AND DRUG  
PROGRAMS**

**Conflict of Interest Code**

This action amends the Department's Conflict of Interest Code. This action has been approved by the Fair Political Practices Commission and is being submitted to OAL for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 9  
California Code of Regulations  
AMEND: 9100  
Filed 02/20/03  
Effective 03/22/03  
Agency Contact: Mary Conway (916) 327-4742

**DEPARTMENT OF HEALTH SERVICES  
STAKE Inspections; Decoys**

This action concerns the STAKE (Stop Tobacco Access to Kids Enforcement Act) program and the use of 15 or 16 year old decoys in random law enforcement inspections used to monitor sales of cigarettes and tobacco products at retail establishments to persons under 18 years of age. The change in regulation conforms to recent statutory changes (Business and Professions Code section 22952(d)(4)) which now says that a 15 or 16 year old decoy "need not state his or her actual age but shall present a true and correct identification if verbally asked to present it." Prior to that, the statute required teenage decoys to truthfully state their age if asked.

Title 17  
California Code of Regulations  
ADOPT: 6903 (b)  
Filed 02/25/03  
Effective 03/27/03  
Agency Contact: Linda Tutor (916) 654-0381

**DEPARTMENT OF MOTOR VEHICLES  
Financial Responsibility Disciplinary Guidelines**

The Department of Motor Vehicles is amending the captioned section to update the revision for subsection (e) entitled "Guidelines for Actions Against the Driving Privilege Based on Financial Responsibility" from "2/99" to "1/03". The effective date is 2/20/03.

Title 13  
California Code of Regulations  
AMEND: 110.04

Filed 02/21/03  
Effective 03/23/03  
Agency Contact: John Urakawa (916) 657-9927

**DEPARTMENT OF WATER RESOURCES**

**Yuba Feather Flood Protection Program Feasibility  
and Design Funding**

This action would define design activities and make them eligible for funding through the Yuba Feather Flood Protection Program of the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act of 2000.

Title 23  
California Code of Regulations  
AMEND: 499.1, 499.2, 499.3, 499.4, 499.5, 499.6,  
499.6.1, 499.6.2, 499.7, and 499.8  
Filed 02/25/03  
Effective 02/25/03  
Agency Contact:  
Katherine A. Spanos (916) 653-6295

**EMERGENCY MEDICAL SERVICES AUTHORITY  
Emergency Medical Technician-Paramedic Fees**

The regulatory action imposes a \$50 late fee for failure to have submitted an application for renewal of a paramedic license within a specified time frame.

Title 22  
California Code of Regulations  
AMEND: 100177  
Filed 02/20/03  
Effective 02/20/03  
Agency Contact:  
Nancy J. Steiner (916) 322-4336

**FAIR POLITICAL PRACTICES COMMISSION  
Public Generally; General Rule and Small Jurisdic**

The Fair Political Practices Commission is repealing section 18707.3, title 2, California Code of Regulations.

Title 2  
California Code of Regulations  
REPEAL: 18707.3  
Filed 02/25/03  
Effective 02/25/03  
Agency Contact:  
Natalie Bocanegra (916) 322-5660

**FAIR POLITICAL PRACTICES COMMISSION  
FPPC Rulemaking Procedure**

This action concerns pre-notice meetings, pre-notice hearings, deadline submission for written comments, and other procedures related to rulemaking by the FPPC. This action is exempt from OAL review and is being submitted for filing with the Secretary of State and printing in the California Code of Regulations only.

Title 2  
California Code of Regulations  
AMEND: 18312  
Filed 02/24/03  
Effective 03/26/03  
Agency Contact: John Wallace (916) 445-4812

**OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD**  
Liquefied Natural Gas

This Certificate of Compliance requires continuous monitoring for natural gas leaks during refueling. (Previous OAL file #02-0820-02E)

Title 8  
California Code of Regulations  
AMEND: 451, 527  
Filed 02/24/03  
Effective 02/24/03  
Agency Contact: Marley Hart (916) 274-5721

**OFFICE OF ENVIRONMENTAL HEALTH  
HAZARD ASSESSMENT**  
No Significant Risk, Observable Effect Levels  
(Proposition 65)

This rulemaking action establishes specific regulatory levels posing no significant risk for benzofuran, N-carboxymethyl-N-nitrosourea, p-chloro-o-toluidine hydrochloride, 3,3'-dimethoxy-benzidine; 3, 3' dimethoxybenzidine dihydrochloride, 3,3'-dimethylbenzidine dihydrochloride, 3,3'- dimethylbenzidine dihydrochloride, isobutyl nitrite, 2-methylaziridine (propyleneimine), nalidixic acid, phenyl glycidyl ether, o-phenylenediamine, o-phenylenediamine dihydrochloride, tetranitromethane, and 2, 6-xylidine, and establishes specific regulatory levels having no observable effect for linuron.

Title 22  
California Code of Regulations  
AMEND: 12705, 12805  
Filed 02/25/03  
Effective 03/27/03  
Agency Contact: Susan Luong (916) 327-3015

**OFFICE OF ENVIRONMENTAL HEALTH  
HAZARD ASSESSMENT**  
Chemicals Formally Identified by Authoritative Bodies

The Office of Environmental Health Hazard Assessment is amending the captioned section to add "National Toxicology Program" to the list of identified authoritative bodies for purposes of identifying chemicals as causing reproductive toxicity.

Title 22  
California Code of Regulations  
AMEND: 12306

Filed 02/19/03  
Effective 03/21/03  
Agency Contact: Cynthia Oshita (916) 322-2068

**OFFICE OF THE STATE FIRE MARSHAL**  
Updating D Occupancies to R-2 & R-6 Occupancies

The Office of the State Fire Marshal is amending the captioned sections in order to provide for updated references to the California Building Standards Code.

Title 19  
California Code of Regulations  
AMEND: 1.05, 1.07, 3.08, 3.23, 3.25, 3.26, 3.29, 3.32  
Filed 02/25/03  
Effective 03/27/03  
Agency Contact:  
Rodney Slaughter (916) 445-8454

**STATE ALLOCATION BOARD**  
Leroy F. Greene School Facilities Act of 1998—60/40

This Certificate of Compliance completes the emergency regulatory action implementing urgency legislation (AB 16, Chapter 33, Statutes 2002, effective April 29, 2002), which changed the funding ratio for modernization program grants from 80/20 to 60/40 retroactively as of March 15, 2002, increasing school districts' matching responsibilities.

Title 2  
California Code of Regulations  
AMEND: 1859.79, 1859.79.3, 1859.81.1, 1859.83, 1859.107  
Filed 02/19/03  
Effective 02/19/03  
Agency Contact: Lisa Jones (916) 322-1043

**STATE LANDS COMMISSION**  
Marine Terminal Physical Security

The regulatory action deals with marine terminal physical security.

Title 2  
California Code of Regulations  
ADOPT: 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445  
Filed 02/24/03  
Effective 02/24/03  
Agency Contact:  
Livin D. Prabhu (562) 499-6312

**SUPERINTENDENT OF PUBLIC INSTRUCTION**

This Certificate of Compliance completes an emergency action which amended the appeal procedure for terminating or suspending contracts with child care and service providers, adding the denial of access to records or a facility as good cause for termination or suspension.

Title 5  
California Code of Regulations  
AMEND: 18301  
Filed 02/24/03  
Effective 02/24/03  
Agency Contact: Debra Strain (916) 319-0641

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN OCTOBER 23, 2002  
TO FEBRUARY 26, 2003**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

01/21/03 REPEAL: 121, 122, 123, 124, 125, 125.5,  
126, 127, 128, Appendix A  
10/29/02 AMEND: 1, 100

**Title 2**

02/25/03 REPEAL: 18707.3  
02/24/03 ADOPT: 2430, 2431, 2432, 2433, 2434,  
2435, 2436, 2437, 2438, 2439, 2440,  
2441, 2442, 2443, 2444, 2445  
02/24/03 AMEND: 18312  
02/19/03 AMEND: 1859.79, 1859.79.3, 1859.81.1,  
1859.83, 1859.107  
02/18/03 AMEND: 18991  
02/18/03 AMEND: 18704.2  
02/13/03 AMEND: 1859.77.2  
02/13/03 ADOPT: 1859.160, 1859.161, 1859.162,  
1859.162.1, 1859.163, 1859.164,  
1859.164.1, 1859.165, 1859.166,  
1859.166.1, 1859.167, 1859.168,  
1859.169, 1859.170, 1859.171 AMEND:  
1859.2, 1859.51, 1859.103, 1859.106,  
1859.145.1  
02/11/03 AMEND: 1897  
02/11/03 AMEND: 1555  
02/06/03 ADOPT: 1859.74.5, 1859.74.6,  
1859.81.2, 14859.81.3, 1859.105.2  
AMEND: 1859.2, 1859.74, 1859.76,  
1859.77.1, 1859.81.1, 1859.90, 1859.103,  
1859.104  
02/03/03 AMEND: 649.11  
02/03/03 ADOPT: 649.23, 649.24, 649.25  
01/30/03 ADOPT: 18530.2  
01/16/03 ADOPT: 1859.71.2, 1859.78.4, 1859.108  
AMEND: 1859.50, 1859.70, 1859.72,

1859.73.1, 1859.73.2, 1859.74.1,  
1859.75.1, 1859.76, 1859.78.2,  
1859.79.3, 1859.81, 1859.81.1, 1859.82,  
1859.100, 1859.101, 1859.102, 1859.107  
01/16/03 ADOPT: 18545  
01/16/03 AMEND: 18703.4, 18730, 18940.2,  
18942.1, 18943  
01/16/03 AMEND: 18705.1  
01/16/03 AMEND: 18700  
01/13/03 ADOPT: 1866.4.1, 1866.4.2, 1866.4.3,  
1866.4.4, 1866.4.6, 1866.4.7, 1866.5.1,  
1866.5.2, 1866.5.4, 1866.5.5, 1866.5.6,  
1866.5.7, 1866.5.8, 1866.9.1, 1866.12,  
1866.13, 1866.14 AMEND: 1866,  
1866.1, 1866.2, 1866.3, 1866.4, 1866.5,  
1866.5.3, 1866.7, 1866.8, 186  
01/08/03 ADOPT: 18535  
12/19/02 ADOPT: 1859.200, 1859.201, 1859.202,  
1859.203, 1859.204, 1859.205, 1859.206,  
1859.207, 1859.208, 1859.209, 1859.210,  
1859.211, 1859.212, 1859.213, 1859.214,  
1859.215, 1859.216, 1859.217, 1859.218,  
1859.218, 1859.219, 1859.220,  
12/17/02 ADOPT: 599.723.2  
12/10/02 ADOPT: 58700  
11/26/02 AMEND: 57.1  
11/18/02 AMEND: 589, 589.3, 589.4, 589.5, 589.9  
11/14/02 AMEND: 2271  
11/04/02 ADOPT: 1859.70.1, 1859.71.3,  
1859.78.5, 1859.78.6, 1859.78.7,  
1859.93.1, 1859.120, 1859.121,  
1859.122, 1859.122.1, 1859.122.2,  
1859.123, 1859.124, 1859.124.1,  
1859.125, 1859.125.1, 1859.126,  
1859.127, 1859.128, 1859.129, 1859.130,  
1859.140, 1859.141, 1859  
11/04/02 ADOPT: 549.95  
10/31/02 AMEND: 51000  
10/31/02 ADOPT: 18531.7  
10/24/02 ADOPT: 2351

**Title 3**

02/06/03 ADOPT: 3650, 3651, 3652, 3653, 3654,  
3655, 3656, 3657, 3658, 3659, 3660,  
3661, 3662, 3663, 3663.5  
02/03/03 AMEND: 3700(c)  
01/28/03 AMEND: 3417(b)  
01/27/03 AMEND: 3700(C)  
01/21/03 ADOPT: 6450, 6450.1, 6450.2, 6450.3,  
6784 AMEND: 6000 REPEAL: 6450,  
6450.1, 6450.2, 6450.3, 6784  
01/06/03 AMEND: 1380.19(l), 1428.17, 1436.37  
12/24/02 ADOPT: 1392.12  
12/12/02 AMEND: 3417(b)  
12/12/02 AMEND: 3423(b)  
12/12/02 AMEND: 3417(b)  
12/10/02 AMEND: 3700(b)

12/05/02 AMEND: 6550  
 12/03/02 AMEND: 6622  
 12/02/02 AMEND: 1392.1, 1392.2 , 1392.4, 1392.9.1  
 12/02/02 AMEND: 3423(b)  
 11/12/02 ADOPT: 4600, 4601, 4602, 4603  
 11/07/02 AMEND: 6000, 6710  
 11/01/02 AMEND: 3417(b)  
 10/28/02 AMEND: 3604(b)  
 10/24/02 AMEND: 1380.19, 1430.10, 1430.12, 1430.14, 1430.26, 1430.27, 1430.32, 1430.45, 1430.50, 1430.51

**Title 4**

02/13/03 ADOPT: 10151,10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162  
 01/27/03 ADOPT: 12300, 12301, 12302, 12303, 12304, 12305, 12306, 12307, 12308, 12309, 12310 AMEND: 12300, 12301, 12302, 12303, 12304, 12305, 12306, 12307, 12308, 12309, 12310  
 12/12/02 ADOPT: 12100, 12101, 12104, 12105, 12120, 12122, 12124, 12126, 12128, 12130, 12132, 12140, 12142  
 12/05/02 ADOPT: 12309, 12310 AMEND: 12300, 12301, 12302, 12303, 12305

**Title 5**

02/24/03 AMEND: 18301  
 01/30/03 AMEND: 80043  
 01/29/03 AMEND: 31000,31001, 31003, 31004, 31005, 31006, 31007  
 01/27/03 ADOPT: 42397, 42397.1, 42397.2, 42397.3, 42397.4, 42397.5, 42397.6, 42397.7, 42397.8, 42397.9, 42397.10, 42397.11  
 01/16/03 ADOPT: 9531, 9532  
 01/08/03 ADOPT: 11303, 11304, 11305, 11306, 11307, 11308, 11316 AMEND: 11303, 11304, 11305 REPEAL: 4304, 4306, 4311, 4312  
 12/23/02 AMEND: 80054.5, 80020.4.1  
 12/10/02 ADOPT: 11983.5  
 12/09/02 AMEND: 80054  
 12/05/02 AMEND: 30950, 30951, 30951.1, 30952, 30953, 30954, 30955, 30956, 30957, 30958, 30959

**Title 8**

02/24/03 AMEND: 451, 527  
 01/30/03 AMEND: 336  
 01/29/03 ADOPT: 10133.16, 10133.17, 10133.18, 10133.19, 10133.20, 10133.21, 10133.22, 10122.1, 10127.3, 10131.2, 10133.10, 10133.11, 10133.12, 10133.13, 10133.14, 10133.15 AMEND: 10122, 10131, 10133, 10133.2, REPEAL: 10133.1

01/28/03 AMEND: 1604.5(c)(3), 1604.6(a)  
 01/21/03 ADOPT: 339.9 AMEND: 339.8.1  
 01/09/03 AMEND: 9771, 9771.2, 9771.66, 9772, 9779, 9779.1, 9779.3, 9779.4, 9779.45  
 01/09/03 AMEND: 769  
 01/09/03 ADOPT: 412.2 AMEND: 403, 404, 405.1, 411, 411.1, 411.2, 418, 420 REPEAL: 407, 407.1, 407.2, 407.3,  
 01/08/03 ADOPT: 46.1  
 01/06/03 AMEND: 1527  
 01/03/03 AMEND: 344.30  
 12/30/02 ADOPT: 10114.1, 10114.2, 10114.3, 10114.4, 101002, 10103.2, 10106.1, 10107.1, 10111.2, 10113.1, 10113.2, 10113.3, 10113.4, 10113.5, 10113.6 AMEND: 10104, 10105, 10106.5, 10108, 10109, 10113, 10114, 10115.1 REPEAL: 10115.3  
 12/30/02 AMEND: 14300.10, 14300.12, 14300.29  
 12/19/02 AMEND: 5221, 5223,  
 12/03/02 AMEND: 4794, 4848, 4850  
 12/02/02 AMEND: 3441(a)  
 11/18/02 ADOPT: 2980, 2981, 2982, 2983

**Title 9**

02/20/03 AMEND: 9100  
 01/02/03 AMEND: 10355  
 12/26/02 ADOPT: 7149.1 AMEND: 7174  
 11/26/02 ADOPT: 9526, 9531 AMEND: 9500, 9505, 9515, 9530, 9535

**Title 10**

02/13/03 AMEND: 3200  
 02/11/03 AMEND: 2646.6 REPEAL: 2646.7, 2646.8, 2646.9, 2646.10, 2646.11  
 01/21/03 AMEND: 2690.1, 2690.2  
 01/16/03 AMEND: 2498.6  
 01/13/03 ADOPT: 2498.6  
 01/02/03 AMEND: 2509.40, 2509.41, 2509.42, 2509.45, 2509.77  
 12/31/02 AMEND: 2318.6, 2353.1, and 2354.  
 12/26/02 ADOPT: 2278, 2278.1, 2278.2, 2278.3, 2278.5  
 12/16/02 ADOPT: 1422, 1423  
 12/12/02 AMEND: 2632.8  
 12/12/02 ADOPT: 2699.6606, 2699.6711, 2699.6631, 2699.6717 AMEND: 2699.6500, 2699.6600, 2699.6605, 2699.6607, 2699.6611, 2699.6613, 2699.6617, 2699.6623, 2699.6625, 2699.6629, 2699.6631, 2699.6700, 2699.6703, 2699.6705, 2699.6709, 2699.6800, 2699.6801, 2699.680  
 12/05/02 AMEND: 2632.13(c)  
 11/22/02 ADOPT: 2689.1, 2689.2, 2689.3, 2689.4, 2689.5, 2689.6, 2689.7, 2689.8, 2689.9, 2689.10, 2689.11, 2689.12, 2689.13,



2689.14, 2689.15, 2689.16, 2689.17,  
2689.18, 2689.19, 2689.20, 2689.21,  
2689.22, 2689.23, 2689.24,  
11/19/02 ADOPT: 2542, 2542.1, 2542.2, 2542.3,  
2542.4, 2542.5, 2542.6, 2542.7, 2542.8  
11/18/02 ADOPT: 2187.4  
11/14/02 AMEND: 5002  
11/07/02 ADOPT: 2193, 2193.1, 2193.2 2193.3  
11/04/02 ADOPT: 2698.99  
10/31/02 ADOPT: 2632.13

**Title 11**

02/06/03 AMEND: 1005,1070,1082  
02/03/03 AMEND: 1081(a)(31), 1081(a)(32)  
01/17/03 ADOPT: 3100, 3101, 3102, 3103, 3200,  
3201, 3203, 3204 AMEND: 3000, 3001,  
3002, 3003, 3007, 3008  
12/04/02 ADOPT: 977.52 AMEND: 977.20,  
977.43, 977.44, 977.45, 977.50, 977.51  
12/03/02 AMEND: 1001, 1010 REPEAL: 1009  
11/26/02 AMEND: 1005

**Title 13**

02/21/03 AMEND: 110.04  
02/18/03 REPEAL: 260.01, 262.00, 262.05  
02/06/03 AMEND: 55.17  
02/04/03 ADOPT: 551.14, 551.15, 551.16, 551.17  
AMEND: 553.40, 595  
01/03/03 ADOPT: 2606 AMEND: 2601, 2602,  
2603, 2604, 2605, 2606, 2607, 2608,  
2609, 2610  
12/24/02 AMEND: 2261, 2262, 2262.4, 2262.5,  
2262.6, 2262.9, 2265, 2266.5, 2269,  
2271, 2272, 2296  
11/25/02 AMEND: 810, 811, 812, 813, 814, 815,  
816, 817, 818  
11/04/02 ADOPT: 225.00, 225.03, 225.06, 225.09,  
225.12, 225.15, 225.18, 225.21, 225.24,  
225.27, 226.30, 225.33, 225.36, 225.39,  
225.41, 225.45, 225.48, 225.51, 225.54,  
225.57, 225.60, 225.63, 225.66, 225.69,  
225.72, and related forms

**Title 14**

02/11/03  
02/03/03 AMEND: 120.3  
01/28/03 ADOPT: 6593, 6593.1, 6593.2, 6593.3,  
6593.4, 6593.5, 6593.6, 6593.7, 6593.8,  
6593.9, 6593.10, 6593.11  
01/21/03 ADOPT: 14120 AMEND: 14101, 14102,  
14111, 14112, 14113, 14115, 14116  
01/17/03 AMEND: 180.15  
01/09/03 ADOPT: 52.00, 52.01, 52.02, 52.03,  
52.04, 52.05, 52.09 AMEND: 150.16,  
150.17  
01/07/03 AMEND: 630

01/03/03 ADOPT: 1.91 AMEND: 1.90, 27.60,  
27.82, 28.27, 28.28, 28.29, 28.54, 28.55,  
28.58  
12/31/02 AMEND: 150.06(a)  
12/30/02 AMEND: 670.2  
12/30/02 AMEND: 150.16  
12/30/02 AMEND: 150.06, 150.16  
12/26/02 AMEND: 670.2  
12/19/02 AMEND: 11900  
12/19/02 AMEND: 11900 and 11901  
12/18/02 ADOPT: 3704.1  
12/05/02 AMEND: 18419  
12/03/02 AMEND: 2200, 2320, 2500  
11/25/02 AMEND: 895.1, 929.1, [949.1, 969.1],  
929.2, [949.2, 969.2], 929.3, [949.3,  
969.3], 929.4, [949.4, 969.4] REPEAL:  
929.5, [949.5, 969.5], 1037.5(a), 1052  
11/25/02 AMEND: 912.7, 932.7, 952.7  
11/21/02 AMEND: 1038(f)  
11/21/02 AMEND: 791.7, 870.15, 870.17, 870.19,  
870.21 and incorporated by reference  
form FG-OSPR—1972  
11/18/02 AMEND: 932.9, 952.9  
11/18/02 AMEND: 2090, 2105, 2420, 2425, 2530  
and 2690 renumbered to 2850  
11/14/02 AMEND: 895.1, 912.7, 913.1, 913.2,  
932.7, 933.1, 933.2, 952.7, 953.1, 953.2  
11/07/02 AMEND: 7.50(b)(5)(E), 7.50(b)(156)(H)  
11/07/02 ADOPT: 749.2  
10/28/02 AMEND: 1058.5  
10/28/02 ADOPT: 4971  
10/24/02 ADOPT: 17211, 17211.1, 17211.2,  
17211.3, 17211.4, 17211.5, 17211.6,  
17211.7, 17211.8, 17211.9

**Title 15**

02/18/03 ADOPT: 3054.2(e)(2)(H), 3170, 3170.1,  
3171, 3172, 3172.1, 3172.2, 3173,  
3173.1, 3173.2, 3174, 3175, 3176,  
3176.1, 3176.2, 3176.3, 3176.4, 3177,  
3178, 3179 AMEND: 3045.2(e)(2)(F)  
REPEAL: 3170, 3170.5, 3171, 3172,  
3173, 3174, 3175, 3176, 3177, 3178,  
3179  
01/21/03 AMEND: 3075.2  
12/10/02 ADOPT: 3371.1

**Title 16**

02/18/03 AMEND: 87, 89.1  
02/13/03 AMEND: 1399.508  
02/11/03 AMEND: 1720.1  
02/11/03 AMEND: 1388, 1392  
02/10/03 AMEND: 1717, 1745  
02/06/03 AMEND: 1082.1  
01/29/03 AMEND: 2542, 2542.1, 2547, and 2547.1

01/23/03 ADOPT: 1399.153.10 AMEND:  
1399.153, 1399.153.1, 1399.153.2,  
1399.153.3, 1399.153.4, 1399.153.5,  
1399.153.6, 1399.153.7 1399.153.8,  
1399.153.9,  
01/21/03 AMEND: 3340.42 REPEAL: 3340.42.1  
01/21/03 ADOPT: 1356.6  
01/15/03 ADOPT: 118.5 AMEND: 109, 116, 117,  
121  
01/07/03 AMEND: 1399.660, 1399.664  
01/06/03 AMEND: 1399.85  
12/31/02 ADOPT: 811  
12/24/02 AMEND: 1399.25, 1399.26, 1399.27,  
1399.28, 1399.29  
12/24/02 REPEAL: 1382.1  
12/23/02 ADOPT: 1398.52 AMEND: 1398.37  
12/23/02 AMEND: 1399.10, 1399.12  
12/23/02 REPEAL: 1387, 1387.3, and 1387.5  
12/19/02 AMEND: 1398.3, 1398.20, 1398.21.1,  
1398.28, 1398.42, 1398.47, 1399.12,  
1399.20, 1399.21, 1399.22, 1399.52  
12/16/02 ADOPT: 1435.15 AMEND: 1435,  
1435.2, 1435.3, 1435.5, 1435.6  
12/16/02 ADOPT: 1937.17 AMEND: 1996, 1996.2  
12/12/02 AMEND: 2310(a)(b)  
12/09/02 ADOPT: 2414 AMEND: 2411, 2418  
12/03/02 AMEND: 1690, 1691 REPEAL: 1680,  
1681, 1682  
10/23/02 ADOPT: 1777, 1777.1, 1777.2, 1777.3,  
1777.4, 1777.5, 1778, 1778.1, 1778.2,  
1778.3

#### Title 17

02/25/03 ADOPT: 6903 (b)  
02/10/03 ADOPT: 30315.10, 30315.20, 30315.22,  
30315.23, 30315.24, 30315.33, 30315.34,  
30315.35, 30315.36, 30315.50, 30315.51,  
30315.52, 30315.60, 30316, 30316.10,  
30316.20, 30316.22, 30316.30, 30316.40,  
30316.50, 30316.60, 30316.61, 30317,  
30317.10, 30317.20, 303  
02/03/03 ADOPT: 93113  
01/14/03 AMEND: 50413, 50425, 50753, 50766,  
50810, 54355, 57210, 57433, 58033  
01/14/03 AMEND: 52000, 52082, 52084, 52109,  
52170, 52171, 52173, 52175  
01/09/03 ADOPT: 1029.31, 1029.32, 1029.33,  
1029.34, 1029.108, 1029.116, 1029, 124,  
1029.132, 1029.133, 1029.154, 1029.195,  
1031.7, 1034, 1035.1 AMEND: 1031.4,  
1031.5 REPEAL: 1034, 1034.1  
12/19/02 AMEND: 57332  
12/05/02 AMEND: 58420  
12/02/02 AMEND: 6508  
11/12/02 AMEND: 94006  
10/29/02 AMEND: 54000, 54001

#### Title 18

02/04/03 AMEND: 122.5  
02/04/03 ADOPT: 2570 AMEND: 2500, 2538,  
2552  
02/04/03 AMEND: 1616  
01/23/03 ADOPT: 1807  
01/23/03 ADOPT: 17053.36, 10753.37, 23636,  
23637  
01/21/03 AMEND: 25137-2  
01/15/03 AMEND: 904  
01/14/03 AMEND: 21(e)(1)(A)  
01/09/03 AMEND: 23334  
12/10/02 AMEND: 1502  
12/10/02 AMEND: 1703  
12/10/02 AMEND: 17951-1, 17952, 180001-1 RE-  
PEAL: 17554  
12/10/02 ADOPT: 1535  
12/03/02 AMEND: 1525.2  
12/02/02 REPEAL: 24348(b)

#### Title 19

02/25/03 AMEND: 1.05, 1.07, 3.08, 3.23, 3.25,  
3.26, 3.29, 3.32  
02/04/03 ADOPT: 2575, 2575.1, 2575.2, 2576,  
2576.1, 2577, 2577.1, 2577.2, 2577.3,  
2577.4, 2577.5, 2577.6, 2577.7, 2577.8,  
2578, 2578.1, 2578.2, 2578.3  
12/19/02 AMEND: 2900, 2910, 2915, 2925, 2930,  
2940, 2945, 2955, 2965, 2970, 2980,  
2990  
11/21/02 AMEND: 557.9, 560, 567, 574.6, 575.3,  
575.4(a), 578.10, 594.3, 594.5, 595.5,  
596, 596.1, 596.2, 596.3

#### Title 20

10/28/02 ADOPT: 1601, 1602, 1602.1, 1603, 1604,  
1605, 1605.1, 1605.2, 1605.3, 1606,  
1607, 1608 REPEAL: 1601, 1602, 1603,  
1604, 1605, 1606, 1607, 1608

#### Title 21

02/03/03 ADOPT: 3570

#### Title 22

02/25/03 AMEND: 12705, 12805  
02/20/03 AMEND: 100177  
02/19/03 AMEND: 12306  
02/13/03 ADOPT: 66260.10, 66260.22, 66261.50,  
66273.7.1, 66273.7.2, 66273.7.3,  
66273.7.4, 66273.7.5, 66273.7.7,  
66273.7.8, 66273.7.9, 66273.10,  
66273.21, 66273.41 AMEND: 66261.1,  
66261.3, 66261.6, 66261.9, 66261.101,  
66262.11, 66264.1, 66265.1, 66268.1,  
66270.1  
02/10/03 ADOPT: 69100, 69101, 69102, 69103,  
69104, 69105, 69106, 69107

02/03/03 ADOPT: 66260.22, 66260.23, 66273.3, 66273.6, 66273.80, 66273.81, 66273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.88, 66273.89, 66273.90 AMEND: 66261.9, 66264.1, 66265.1, 66268.1, 66270.1, 66273.1, 66273.4, 66273.8, 66273.9, 66273.13,

02/03/03 ADOPT: 1111560

02/03/03 ADOPT: 51200.01 AMEND: 51000.4, 51000.30, 51000.45, 51000.50, 51000.55, 51200, 51451

01/27/03 AMEND: 51510, 515110.1, 51510.2, 51510.3, 515111, 51511.5, 515111.6, 51532.3, 51535, 51535.1, 51544, 54501

01/24/03 AMEND: 84001, 84022, 84061, 84063, 84065, 84800, 84801, 84802, 84802.1, 84803, 84804, 84805, 84806, 84807, 84808

01/21/03 AMEND: 51516.1

01/13/03 ADOPT: 100040, 100041 100031, 100039, 100042, 100043, AMEND: 100031, 100032, 100033, 10034, 100035, 100036, 100038, 100040, 100041 REPEAL: 100037, 100039, 100043

01/07/03 ADOPT: 12203, 12204 AMEND: 12102, 12302, 12304, 12305, 12306, 12401, 12403, 12405, 12501, 12502, 12503, 12504, 12601, 12701, 12709, 12711, 12721, 12808, 12803, 12805, 12821, 12901, 12902, 12903, 14000 REPEAL: 12103, 12104, 12201, 12301

12/24/02 AMEND: 51503, 51503.2, 51504, 51505.2, 51505.3, 51507, 51507.1, 51507.2, 51507.3, 51509, 51509.1, 51514, 51517, 51521, 51527, 51529, 51535.5

12/23/02 ADOPT: 64860

12/23/02 ADOPT: 67900.1, 67900.2, 67900.3, 67900.4, 67900.5, 67900.6, 67900.7, 67900.8, 67900.9, 67900.10, 67900.11, 67900.12

12/09/02 ADOPT: 111550

12/03/02 ADOPT: 119184 REPEAL: Manual of Policies and Procedures Section 12-225.3

12/02/02 AMEND: 66262.54, 66264.71, 66264.72, 66265.71, 66265.72, 66270.30

12/02/02 ADOPT: 110411, 110625, 111110, 111120, 111210, 111220, 111230 REPEAL: MPP Sections 12-000, 12-003, and Appendix I

11/25/02 ADOPT: 119015, 119019, 119045, 119069, 119076, 119191, and Forms CSS 4476 (09/02), CSS 4477 (09/02), CSS 4478 (09/02), CSS 4479 (09/02), CSS 4480 (09/02), and CSS 4481 (09/02)

11/25/02 ADOPT: 66273.6, 66273.80, 66273.81, 99273.82, 66273.83, 66273.84, 66273.85, 66273.86, 66273.87, 66273.88, 66273.89, 66273.90 AMEND: 66271.9, 66273.1, 66273.8, 66273.9

11/18/02 ADOPT: 4407.1

11/18/02 AMEND: 69103

11/05/02 AMEND: 1256-9, 1253. 12-1, 1030(a)-1

10/31/02 ADOPT: 64806

10/28/02 ADOPT: 110250, 110374, 117016, 117019, 117021, 117025, 117030, 117036, 117042, 117047, 117049, 117052, 117054, 117064, 117074, 117080, 117083, 11785, 117089, 117091, 117094, 117200, 117300, 117301, 117302, 117303, 117400, 117401, 117402, 117403, 117404,

**Title 22, MPP**

12/03/02 AMEND: 101218.1, 102419, 102421

10/28/02 ADOPT: 89202, 89261, 89319, 89323, 89370, 89372, 89374, 89376, 89388, 89400, 89405 AMEND: 87000, 87001, 87005, 87006, 87007, 87009, 87010, 87010.1, 87010.2, 87017, 87018, 87019, 87019.1, 87019.2, 87020, 87021, 87024, 87026, 87027, 87028, 87029, 87031,

**Title 23**

02/25/03 AMEND: 499.1, 499.2, 499.3, 499.4, 499.5, 499.6, 499.6.1, 499.6.2, 499.7, 499.8

02/25/03 AMEND: 20164, 21110, 21570, 21640, 21685, 21780, 21860, 21865, 21870, 21880

01/13/03 ADOPT: 3963

12/19/02 ADOPT: 3410, 3410.1, 3410.2, 3410.3, 3410.4, 3410.5

12/17/02 ADOPT: 3913

12/09/02 AMEND: 3933

12/05/02 ADOPT: 510, 511, 512, 513, 514, 515, 516, 517

10/29/02 AMEND: 2200

**Title 25**

11/07/02 AMEND: 1317, 1318, 1319

11/07/02 AMEND: 5575

**Title 28**

02/18/03 ADOPT: 1300.74.30

12/17/02 ADOPT: 1300.67.60

12/16/02 ADOPT: 1300.89

11/21/02 AMEND: 1000, 1300.43.3, 1300.43.6, 1300.43.10, 1300.43.13, 1300.43.14, 1300.43.15, 1300.45, 1300.47, 1300.51, 1300.51.1, 1300.51.2, 1300.52.1, 1300.61.3, 1300.65.1, 1300.89, 1300.99

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11/12/02 ADOPT: 1300.70.4, 1300.74.30  
AMEND: 1300.68, 1300.68.01

### Title MPP

02/18/03 AMEND: 31-001, 31-002, 31-075, 31-401, 31-410, 31-420, 31-440, 31-445

02/13/03 ADOPT: 16-001, 16-003, 16-005, 16-010, 16-015, 16-105, 16-120, 16-130, 16-201, 16-215, 16-301, 16-310, 16-315, 16-320, 16-325, 16-401, 16-410, 16-501, 16-505, 16-510, 16-515, 16-517, 16-520, 16-601, 16-610, 16-701, 16-750, and 16-801 AMEND: 20-300, 44-3

01/23/03 AMEND: 40-181.1(e), 42-710.6, 42-711.5, 42-711.6, 42-711.8, 42-721.1, 42-721.4, 44-314.1, 44-314.2, 80-301(r), 82-812.6

01/23/03 AMEND: 49-020

01/14/03 ADOPT: 16-705

01/14/03 ADOPT: 11-404, 11-406 AMEND: 11-400, 11-402, 11-403, 11-405

12/24/02 AMEND: 84001, 84022, 84061, 84063, 84065, 84800, 84801, 84802, 84802.1, 84808, 84805, 84803, 84804, 84806, 84807.

12/19/02 AMEND: 45-101, 45-201, 45-202, 45-203, 45-302, 45-304, 80-310

